

6 FAM 200 APPENDIX E DEPARTMENT OF STATE ACQUISITION REGULATION (DOSAR)

SUBCHAPTER A GENERAL

PART 601 DEPARTMENT OF STATE ACQUISITION REGULATION SYSTEM

Subpart 601.0

601.000 Scope of Part.

(TL:GS-40; 9-8-95)

This part describes the Department of State Acquisition Regulation (DOSAR) in terms of establishment, relationship to the Federal Acquisition Regulation (FAR), arrangement, applicability, and deviation procedures.

Subpart 601.1 Purpose, Authority, Issuance

601.101 Purpose.

(TL:GS-40; 9-8-95)

The DOSAR is issued to provide Department guidance in accordance with the policy cited in FAR 1.301(a)(2). The portions of this regulation that affect the relationship between a Department of State organization and a contractor or potential contractor have been published in this Chapter 6 of Title 48 of the Code of Federal Regulations, in accordance with FAR 1.301(b).

601.104 Issuance.

601.104-3 Copies.

(TL:GS-40; 9-8-95)

The FAR and DOSAR are available on CD-ROM disks through the Department's INFOEXPRESS program. INFOEXPRESS programs are updated quarterly. In order to use INFOEXPRESS, offices must have a PC configured with a CD-ROM drive and appropriate controller card; MS-DOS 3.1 or higher; Microsoft MS-DOS CD-ROM Extension 2.x; a VGA monitor; a minimum of 640KB of memory with 540K free; and, a minimum of 2Mb of hard

disk space. Interested offices should contact the Office of Information Services.

601.105 OMB Approval under the Paperwork Reduction Act.

(TL:GS-40; 9-8-95)

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) before collecting information from ten (10) or more members of the public. The information and recordkeeping requirements contained in this regulation have been approved by OMB under OMB Control Number 1405-0050.

Subpart 601.2 Administration

601.201 Maintenance of the FAR.

601.201-1 The two councils.

(TL:GS-40; 9-8-95)

The Office of the Procurement Executive (A/OPE) represents the Department of State (DOS) on the Civilian Agency Acquisition Council. The Procurement Executive shall appoint a representative for this purpose. A/OPE is responsible for coordinating with all interested DOS elements on proposed FAR revisions and for advocating FAR revisions sought by the Department.

Subpart 601.3 Agency Acquisition Regulations

601.301 Policy.

(TL:GS-40; 9-8-95)

(a)(1) The Assistant Secretary of State for Administration is the agency head for the purpose of FAR 1.301 (see Delegation of Authority No. 120 (34 FR 18095, October 30, 1969), as amended by Delegation of Authority No. 120-4 (59 FR 38022, July 26, 1994). Under Delegation of Authority No. 120-5 (59 FR 62771, December 6, 1994), the Assistant Secretary of State for Administration redelegated to the Procurement Executive the authority to prescribe, promulgate, and amend DOS acquisition policies, rules, and regulations.

(2) The Department's procurement directives system consists of the following components:

(i) The DOSAR;

(ii) Procurement Policy Directives (PPDs), which provide basic policy or procedural guidance and direction. PPDs are issued on an interim basis, and are subsequently incorporated into the next revision of the DOSAR; and

(iii) Procurement Information Bulletins, which provide general information on topics of interest to contracting personnel.

(b) The Department of State Acquisition Regulation (DOSAR) is prescribed under the authority of 22 U.S.C. 2658 and 40 U.S.C. 486(c).

(c) The DOSAR implements and supplements the FAR.

601.302 Limitations.

(TL:GS-40; 9-8-95)

(a) The FAR and the DOSAR apply to all DOS acquisitions of personal property and services, including construction and leases of real and personal property, both within and outside the United States, unless expressly excluded by this subpart, or exempt from the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 474(7)), or undertaken pursuant to the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 4308) or the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292 et seq).

(b) At posts where Joint Administrative Offices have been formed, the FAR and the DOSAR apply to all Agency for International Development (AID) administrative and technical support acquisitions, except in those areas which have been exempted by the cognizant administrative office.

601.303 Publication and codification.

(TL:GS-40; 9-8-95)

(a) The DOSAR is issued as Chapter 6 of Title 48, Code of Federal Regulations. The DOSAR is established as Chapter 6 of the Federal Acquisition Regulations System. The DOSAR is divided into the same parts, subparts, sections, subsections, and paragraphs as the FAR. However, when the FAR coverage is adequate by itself there will be no corresponding DOSAR coverage. Where the DOSAR implements a specific part, subpart, section, or subsection of the FAR, the DOSAR coverage is numbered and titled to correspond to the appropriate FAR number and title, except that the DOSAR number will include a 6 or 60 such that there will always be three numbers to the left of the decimal. For example, the DOSAR implementation of FAR 14.1 is shown as 614.1 and the DOSAR implementation of FAR 1.301 is shown as 601.301. Materials that supplement the FAR are assigned the numbers 70 and up. For example, DOSAR requires additional definitions than those used in FAR; this supplementary material is provided in 602.101-70.

(b) The DOSAR and its revisions are published in the Federal Register and in the Code of Federal Regulations, both of which may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(c) The DOSAR shall be referenced in the same manner as described at FAR 1.104-2(c).

Subpart 601.4 Deviations from the FAR

601.403 Individual deviations.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 1.403.

601.404 Class deviations.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 1.404(a).

601.405 Deviations pertaining to treaties and executive agreements.

(TL:GS-40; 9-8-95)

The Procurement Executive shall determine whether a deviation pertaining to treaties and executive agreements is authorized under FAR 1.405 or that a request for deviation is required under FAR 1.405(e).

601.470 Deviations from the DOSAR.

(TL:GS-40; 9-8-95)

The authority to approve any deviations from the DOSAR is reserved to the Procurement Executive.

601.471 Procedures.

(a) The head of the contracting activity shall submit to the Procurement Executive a written request for each deviation from the FAR or the DOSAR, whether for individual cases, classes of cases, or deviations pertaining to treaties and executive agreements. Each request for a deviation shall state-

(1) The nature of the deviation requested, including whether it is an individual or class deviation;

(2) The FAR or DOSAR regulation from which the deviation is requested;

(3) The circumstances under which the deviation would be used;

(4) The effect intended by the deviation; and

(5) The expiration date recommended for the deviation.

(b) The head of the contracting activity shall also submit all pertinent documentation supporting the request.

(c) The contracting officer shall include in the contract file a copy of each authorized deviation that pertains to the acquisition.

Subpart 601.5 Agency and Public Participation

601.570 Rule making.

(TL:GS-40; 9-8-95)

(a) The DOSAR is promulgated and may be revised, as necessary, in accordance with FAR Part 1.

(b) The Procurement Executive shall issue all DOS acquisition regulations.

Subpart 601.6 Career Management, Contracting Authority, and Responsibilities

601.601 General.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 1.601.

601.602 Contracting officers.

601.602-1 Authority.

(TL:GS-40; 9-8-95)

(a) DOS contracts are awarded pursuant to the foreign affairs management responsibilities conferred on the Secretary of State (22 U.S.C. 2656), and the various laws, regulations, and Executive Orders relating thereto.

(b) Except as otherwise provided by law, DOS regulations, and this DOSAR, the Procurement Executive has the authority to execute, award, and administer contracts, purchase orders, other contractual arrangements, and other agreements, including FAR-covered interagency acquisition

agreements, for the expenditure of funds involved in the acquisition of real and personal property, services, and for the sale of personal property. The Procurement Executive may further delegate this authority to those DOS employees appointed or designated to the contracting activities enumerated in 601.603-70.

(c) The contracting officer shall not award, modify, or terminate a contract unless all reviews, clearances, and approvals prescribed in the FAR or DOSAR have been obtained, and all applicable requirements of law, the FAR, the DOSAR, and other regulations have been met.

601.602-3 Ratification of unauthorized commitments.

(TL:GS-40; 9-8-95)

(b) *Policy.* (1) The Government generally is not bound by unauthorized commitments. Unauthorized commitments violate the Federal Property and Administrative Services Act, other Federal laws, the FAR, the DOSAR, and proper acquisition practice. Therefore, such unauthorized commitments are serious violations that usually necessitate disciplinary action against the transgressor, e.g., withdrawal of a contracting officer's warrant or a Contracting Officer's Representative delegation or collection action.

(2) The head of the contracting activity is delegated the authority to serve as the ratifying official for unauthorized commitments not exceeding \$1,000. The head of the contracting activity may refer such actions to the Procurement Executive for ratification if he/she so chooses. All unauthorized commitments in excess of \$1,000 shall be ratified by the Procurement Executive.

(3) Unauthorized contractual commitments that would involve claims subject to resolution under the Contracts Dispute Act of 1978 shall be processed in accordance with FAR Subpart 33.2 and Subpart 633.2.

(c) *Limitations.* The contracting officer is not required to obtain concurrence of legal counsel when recommending payment of an unauthorized commitment. However, the contracting officer is encouraged to obtain legal concurrence if there is a question of propriety or a legal issue.

601.602-3-70 Procedures.

(TL:GS-40; 9-8-95)

(a)(1) The person who made the unauthorized commitment shall submit all records and documents concerning the unauthorized commitment to the contracting officer assigned the ratification action. That person shall provide a complete written, signed statement of the facts, including why normal acquisition procedures were not followed, why and how the vendor was selected, a list of other sources considered, a description of work or products, a statement regarding the status of performance, an estimated or agreed

price, certified funding citations, and a statement as to why he/she should not be personally liable for the cost, e.g., a public purpose was served and no personal benefit was received.

(2) When the person who made the unauthorized contractual commitment is no longer available to attest to the circumstances of the unauthorized commitment, an officer from the responsible office shall accomplish the requirements of this paragraph; the statement shall identify the individual responsible for the unauthorized commitment.

(3) In addition, a cognizant management official from the office which employed the individual who made the unauthorized commitment at the time the unauthorized commitment was made shall provide a statement detailing actions that he/she will take to ensure that such commitments will not occur again under the same or similar circumstances.

(b) The contracting officer assigned the ratification action shall prepare and execute a recommendation to the ratifying official. The contracting officer shall either recommend that the ratifying official approve and ratify the unauthorized commitment; or, disapprove the ratification of the unauthorized commitment.

(1) The recommendation shall include the facts and circumstances of the unauthorized commitment; the information prescribed in FAR 1.602-3(c)(1) and (c)(3) through (c)(6); and a recommendation to the ratifying official as to whether the unauthorized commitment should be ratified.

(2) Following the signature of the contracting officer, the recommendation shall include a statement that the ratifying official could have granted authority to enter into a contractual commitment at the time it was made and still has the authority to do so; that the ratifying official hereby ratifies (or disapproves) the unauthorized commitment in the amount specified; and a date and signature block for the ratifying official.

(c) The information required in paragraph (b)(1) above shall be supported by factual findings included or referenced in the recommendation.

(d) The contracting officer shall submit the complete file to the ratifying official. For actions exceeding \$1,000, the file shall be submitted through the head of the contracting activity to the Procurement Executive.

(e) Upon receipt and review of the complete file, if the ratifying official ratifies the unauthorized commitment, the file shall be returned, through the head of the contracting activity if the action exceeds \$1,000, to the contracting officer for issuance of the appropriate contractual document(s). If the request for ratification is not justified, the ratifying official shall return the request to the head of the contracting activity (if over \$1,000) or to the contracting officer (if

under \$1,000) with a written explanation for the decision and a recommendation for disposition of the action.

(f)(1) When a ratification is approved, the ratifying official shall prepare a letter to the contractor involved in the ratification. The letter shall state the reason(s) why the ratification was approved and provide cautionary language to the contractor regarding future instances of ratification actions.

(2) When a ratification is not approved, the head of the contracting activity shall prepare a letter to the contractor advising that the ratification was not approved. The letter shall cite the reason(s) for the disapproval.

601.603 Selection, appointment, and termination of appointment.

601.603-3 Appointment.

(TL:GS-40; 9-8-95)

(a) There is no contracting officer authority conferred upon any DOS employee by virtue of position. The Procurement Executive appoints all DOS contracting officers, in conformance with FAR1.603-3. The contracting officer shall retain the original copy of the Standard Form 1402, Certificate of Appointment, signed by the Procurement Executive. Only qualified employees shall be appointed as Contracting Officers. A/OPE is responsible for providing guidance and oversight in managing such appointments.

(b) Contracting Officers shall be appointed in accordance with the Procurement Career Management Guidebook, available from A/OPE.

(c) *Non-Federal employees.* Only United States Government direct-hire employees who are U.S. citizens shall be appointed as contracting officers. Personal services contractors, Foreign Service Nationals, and Third Country Nationals are not eligible for appointment as DOS contracting officers.

601.603-70 Delegations of authority.

(TL:GS-40; 9-8-95)

(a) *Delegations.* As stated in 601.603-3(a), there is no contracting officer authority conferred by virtue of position. Pursuant to 601.602-1(b), the Procurement Executive has designated the following as contracting activities as defined in FAR 2.101. These authorities are not redelegable. In addition, specific individuals are designated as heads of contracting activities (HCAs) (see FAR 2.101):

(1) *Overseas posts.* Each overseas post shall be regarded as a contracting activity to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, and services; to sell personal property; and to lease real property. The Principal

Officer, the Administrative Officer, or the Supervisory General Services Officer are designated as HCAs; provided, that he/she has a contracting officer's warrant issued by the Procurement Executive. The Procurement Executive (or authorized A/OPE staff) may delegate to a contracting officer, on a case-by-case basis, the authority to award a contract or modification which exceeds the contracting officer's warrant level.

(i) No authority is delegated to enter into cost-reimbursement, fixed-price incentive, or fixed-price redeterminable contracts.

(ii) When expressly authorized by a U.S. Government agency which does not have a contracting officer at the post, the officers named above in paragraph (a)(1) introductory text may enter into contracts for that agency. Use of this authority is subject to the statutory authority of that agency and any special contract terms or other requirements necessary for compliance with any conditions or limitations applicable to the funds of that agency. The agency's authorization shall cite the statute(s) and state any special contract terms or other requirements with which the acquisition so authorized must comply. In view of the contracting officer's responsibility for the legal, technical, and administrative sufficiency of contracts, questions regarding the propriety of contracting actions that the post is required to take pursuant to this authority may be referred to the Department for resolution with the headquarters of the agency concerned.

(2) *Office of Foreign Buildings.* The authority to enter into and administer contracts pursuant to the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 292 et seq.), is delegated to the Deputy Assistant Secretary for Foreign Buildings and to the Director for Acquisitions as the HCA.

(3) *Office of Acquisition.* The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies and non-personal services is delegated to the Director and Deputy Director as the HCA.

(4) *Foreign Service Institute.* The authority to enter into and administer contracts pursuant to Chapter 7, Title I, of the Foreign Service Act of 1980, as amended (22 U.S.C. 4021 et seq.), is delegated to the Director of the Foreign Service Institute, the Executive Director, the Deputy Executive Director, and the Supervisory Contracting Officer as the HCA.

(5) *Office of Foreign Missions.* The authority to enter into and administer contracts pursuant to Title II of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 4301 et seq), is delegated to the Director, Office of Foreign Missions, and the Administrative Officer as the HCA.

(6) *U.S. Mission to the United Nations.* The authority to enter into and administer contracts pursuant to the United Nations Participation Act of 1945,

as amended (22 U.S.C. 287), is delegated to the Counselor for Administration as the HCA.

(7) *Moscow Embassy Building Control Office*. The authority to enter into and administer contracts for the planning, design, and construction of the embassy office building in Moscow is delegated to the Director, Moscow Embassy Building Control Office as the HCA.

(8) *Diplomatic Telecommunications Service - Program Office*. The authority to enter into and administer contracts for the leasing or purchase of telecommunications services, circuits, subsystems, and associated professional services is delegated to the Chief, Acquisition Branch as the HCA.

(9) *Regional Procurement Support Offices*. (i) The authority to enter into and administer contracts for the expenditure of funds involved in the acquisition of supplies, equipment, publications, services, execute leases for real property, and to sell personal property on behalf of overseas posts is delegated to each Director, Regional Procurement Support Office (RPSO) as the HCA at the following locations:

- (A) RPSO Bonn in conjunction with Embassy Bonn;
 - (B) RPSO Tokyo in conjunction with Embassy Tokyo;
 - (C) RPSO Singapore in conjunction with Embassy Singapore; and,
 - (D) RPSO Miami in conjunction with the Miami Regional Center.
- (ii) The RPSOs are under the purview and guidance of A/OPE.

(b) *Other delegations*. Several DOS offices have been delegated limited procurement authority, although they have not been designated as HCAs. Matters requiring HCA resolution are referred to the Office of Acquisition. These delegations are provided only to warranted contracting officers in the respective offices. They are as follows:

(1) *Office of Language Services*. The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts for interpreting, translating, conference reporting, and related language support and escort services.

(2) *Office of Overseas Schools*. The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to section 29 of the State Department Basic Authorities Act of 1956, as amended.

(3) *Library*. The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule

contracts pursuant to the provisions of the Public Printing and Documents Act of 1968, as amended, for the acquisition of newspapers, books, maps, and periodicals.

(4) *Office of International Conferences.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to section 5, Title I, of the Department of State Basic Authorities Act of 1956, as amended.

(5) *Bureau of Population, Refugees, and Migration.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13 and orders against schedule contracts pursuant to the Migration and Refugee Assistance Act of 1962, as amended, and Executive Order 11077, dated January 22, 1963.

(6) *Bureau of International Narcotics and Law Enforcement Affairs.* The authority to enter into and administer simplified acquisition transactions under FAR Part 13, orders against schedule contracts and personal services contracts pursuant to the Foreign Assistance Act of 1961, as amended; and, 48 CFR Chapter 7, Agency for International Development Acquisition Regulation, including any amendments thereto.

601.670 Procurement Career Management Program.

(TL:GS-40; 9-8-95)

(a) *Policy.* The Department's Procurement Career Management Program is designed to improve the quality of contracting in the Department through the development and maintenance of professional contracting skills in accordance with the Federal Acquisition Institute's Contract Specialist Workbook and related guidance.

(b) *Procedures.* Details of the Department's Procurement Career Management Program are described in the Department of State Procurement Career Management Guidebook. A/OPE shall provide guidance and oversight.

PART 602 DEFINITIONS OF WORDS AND TERMS

Subpart 602.1 Definitions

602.101 Definitions.

602.101-70 DOSAR definitions.

(TL:GS-40; 9-8-95)

For the purposes of the DOSAR, unless otherwise indicated, the following terms have the meanings set forth in this subpart.

“Consolidated Receiving Point” or “CRP” means the contractor under contract to a Despatch Agency to receive and prepare items for shipment to a post. The CRP receives, records, consolidates, and packs items for shipment overseas under the direction of the Despatch Agency.

“Department” or “DOS” means the Department of State, including all of its activities wherever located.

“Despatch Agency” means the office responsible for the transportation of goods between the U.S. and posts within its specific geographic area as assigned by the Transportation Division, Office of Supply and Transportation. There are four Despatch Agencies, one each in New York City; Baltimore, Maryland; Miami, Florida; and, Seattle, Washington.

“Government” means the Government of the United States of America unless specifically stated otherwise.

“Local procurement” means acquisition by a post in the country in which the post is located.

“Overseas post” means a “post” located outside the United States of America.

“Post” means a diplomatic or consular mission of the United States of America, administered or managed by the DOS.

PART 603 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 603.1 Safeguards

603.104 Procurement integrity.

603.104-1 General.

603.104-1-70 Training.

(TL:GS-40; 9-8-95)

The Office of the Procurement Executive (A/OPE) shall conduct training on an as-needed basis upon request of the head of the contracting activity, for both procurement and program personnel who are considered procurement officials under FAR 3.104.

603.104-5 Disclosure, protection, and marking of proprietary and source selection information.

(TL:GS-40; 9-8-95)

(c) All material which is considered proprietary and source selection material will be marked to prevent its unauthorized disclosure before award. This may be performed by marking each page of proprietary and source selection material with the statement "Source Selection Information--See FAR 3.104" or "Proprietary Information--See FAR 3.104", as applicable. Alternatively, this requirement may be met by attaching Forms DS-1926, *Proprietary Information (Cover Page)*, and DS-1927, *Source Selection Information (Cover Page)*, (illustrated in Part 653) to any proprietary and source selection information. Individuals responsible for preparing derivative documents (which reference, cite, or paraphrase proprietary or source selection information) are responsible for marking such documents as indicated above. The required marking or cover page shall be included when technical proposals are submitted for evaluation and when an audit is requested (since the proposal(s) will be attached, which constitute proprietary information). After award, the procedures governing the Freedom of Information Act and related laws/regulations shall be followed regarding release of proprietary or source selection information.

(d)(1) A sample of the list of all persons granted access to proprietary or source selection information regarding either a contract or modification for new work is illustrated in the Appendix to the DOSAR. The list shall be maintained as part of the contract file. The list shall include, but is not limited to, persons such as the COR, technical evaluators, advisors, consultants, the Source Selection Official, audit staff (IG, DCAA, HHS, etc. who performed pre-award audits), the contract specialist, the contracting officer, and any non-Government staff who participated in the procurement. The head of the contracting activity is the agency head's designee for the purposes of FAR 3.104-5(d)(1).

(2) The following classes of persons may be authorized access to proprietary or source selection information by the contracting officer or head of the contracting activity when such access is necessary to the conduct of a procurement:

- (i) Clerical personnel directly involved in the procurement;
- (ii) Supervisors in the contracting officer's chain of command;
- (iii) Contracting personnel involved in reviewing or approving the solicitation, contract, or contract modification; and
- (iv) Personnel in the following offices: Office of Small and Disadvantaged Business Utilization (A/SDBU), Office of the Legal Adviser, Office of Legislative Affairs, Office of the Inspector General, the Small Business Administration, and the Office of Federal Contract Compliance Programs (Department of Labor).

603.104-7 Postemployment restrictions applicable to Government officers and employees serving as procurement officials and certifications required from procurement officials leaving Government service.

(TL:GS-40; 9-8-95)

(a) Procurement officials who leave the government before award of a contract or modification for new work in excess of \$100,000 in which they were personally and substantially involved shall certify that they understand their continuing obligation not to disclose proprietary or source selection information related to the contractor modification. This certification, on Form DS-1931, *Procurement Official's Certification of Continuing Obligation*, (illustrated in Part 653) shall be retained in the contract file. This certification also applies to contractor employees serving as procurement officials on behalf of the government when they cease to function as procurement officials.

603.104-9 Certification requirements.

603.104-9-70 Certification requirements.

(TL:GS-40; 9-8-95)

(a) The following additional certifications shall be completed before the award of each contract or modification for new work (justified under FAR Subpart 6.3 and DOSAR Subpart 606.3), if such contract or modification for new work is in excess of \$100,000. These certifications shall be maintained in the contract file under the appropriate tab:

(i) "Contracting Officer Certificate of Procurement Integrity"(see FAR 3.104-9(c)); and

(ii) Contractor's "Certificate of Procurement Integrity" (FAR 52.203-8); or

(iii) Contractor's "Certificate of Procurement Integrity - Modification" (FAR 52.203-9).

The dollar amount noted above includes all options and anticipated delivery orders. These requirements also apply to contracts for less than \$100,000 which are modified to add new work which makes the total value exceed \$100,000, such as a modification for \$20,000 of new work added to a contract for \$90,000.

(b) Competing contractors are required to complete the "Certificate of Procurement Integrity" and submit it with their bids under IFBs. For RFPs, the apparent successful offeror only need submit the certification. For RFPs, the contracting officer shall contact the apparent successful offeror before award and request that the certificate be submitted within five (5) working days if the certificate was not submitted with the initial proposal. A bid submitted under an IFB that lacks a signed certificate is nonresponsive, and an apparent successful offeror under an RFP who does not submit the required certificate is ineligible for award.

(c) In the case of a modification for new work outside the scope of the contract (which requires a justification and approval under FAR Subpart 6.3), the contract specialist shall obtain the required "Certificate of Procurement Integrity - Modification" from the contractor before submitting the modification for the contracting officer's signature.

(d) The contracting officer's certification shall be completed immediately before award of the contract or before signing a modification for new work and shall be addressed to the head of the contracting activity.

603.104-11 Processing violations or possible violations.

(TL:GS-40; 9-8-95)

(a) The contract specialist shall report any violation or possible violation of the procurement integrity requirements immediately to the contracting officer and the Office of the Inspector General. The contracting officer shall follow the procedures in FAR 3.104-11 regarding such violations.

603.104-12 Ethics program training requirements.

(TL:GS-40; 9-8-95)

(a)(2) Optional Form (OF) 333 shall be used as the certification required by FAR 3.104-12(a)(2). The first page of the OF-333 is used; the second page is not required. Source Evaluation Board and Technical Evaluation Panel members, and advisors are considered to be procurement officials. Therefore, none of these individuals (whether DOS employees, contractors, or employees of other agencies) may be given access to proprietary or source selection information (e.g., offeror's proposals) prior to signing the certification. The procurement request should indicate which officials have signed the required certification. If the procurement request does not indicate which officials have signed the OF-333, the contract specialist should ask the office submitting the request to provide a list of procurement officials and indicate whether they have signed the OF-333. This certification is in addition to any required certification regarding financial conflict of interest, etc. The OF-333 need only be signed once by a DOS employee during his/her term of employment with the Department. The contract specialist shall promptly report any refusal to sign the certification to the cognizant contracting officer.

Subpart 603.2 Contractor Gratuities to Government Personnel

603.203 Reporting suspected violations of the Gratuities clause.

(TL:GS-40; 9-8-95)

DOS personnel shall report immediately and in writing any apparent or suspected violation of the clause at FAR 52.203-3, Gratuities, in connection with any DOS operation. The report shall be made to the contracting officer and the Assistant Inspector General for Investigations. The report shall identify the individuals involved, outline the events, acts, or conditions which indicate the apparent violation occurred, and include all pertinent documents. The Assistant Inspector General for Investigations shall review the report for completeness and accuracy and shall make a preliminary decision whether to proceed with a full investigation. The Assistant Inspector General for Investigations shall provide the written decision to the individual who made the

report and the contracting officer. If the decision is to proceed with an investigation, copies of the decision shall also be provided to the head of the contracting activity, the Procurement Executive, and the Office of the Legal Adviser.

603.204 Treatment of violations.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the agency head's designee for the purposes of FAR 3.204.

(b) *Procedures.* Upon a decision to proceed with an investigation of an alleged violation of the Gratuities clause, the Assistant Inspector General for Investigations shall provide to the contractor a written notice by certified mail, return receipt requested. The notice shall present the findings of the decision and shall establish a schedule, including location, for an investigative hearing for the purposes described in FAR 3.204(b). As determined necessary by the Assistant Inspector General for Investigations, follow-up hearings may be scheduled. Upon completion of the investigation, the Assistant Inspector General for Investigations shall provide to the Procurement Executive a report and recommendation, together with all pertinent documentation.

(c) In addition to the requirements of FAR 3.204(c), when the Procurement Executive determines that a violation has occurred, the Procurement Executive shall so notify the Assistant Inspector General for Investigations. The Assistant Inspector General for Investigations shall then notify the individual who made the report, the Office of the Legal Adviser, and, if appropriate, the Department of Justice.

Subpart 603.3 Reports of Suspected Antitrust Violations

603.303 Reporting suspected antitrust violations.

(TL:GS-40; 9-8-95)

(a) DOS employees are obligated to report immediately and in writing any apparent or suspected antitrust violation, as described in FAR 3.303.

(b) The report shall outline the events, acts, or conditions which indicate the apparent violation and shall include all pertinent documents.

(c) The report shall be made to or by the contracting officer, who shall review it for completeness and accuracy and forward it through the head of the contracting activity to the Office of the Legal Adviser, with a copy to the Procurement Executive. The Office of the Legal Adviser shall provide to the U.S. Attorney General a report on each suspected violation, with single copies to the head of the contracting activity and the Procurement Executive.

Subpart 603.4 Contingent Fees

603.408 Evaluation of the SF-119.

603.408-1 Responsibilities.

(TL:GS-40; 9-8-95)

In carrying out responsibilities prescribed in FAR 3.408-1, the contracting officer shall obtain advice from the Office of the Legal Adviser as to the legality and general propriety of the relationship disclosed thereon. Also, the contracting officer may request the Office of the Inspector General to develop further information if the facts available are deemed insufficient for a proper decision. After reviewing and evaluating all the information obtained, the contracting officer shall render a written decision that shall be included in the contract file, and shall provide a copy of the decision to the Procurement Executive.

Subpart 603.6 Contracts with Government Employees or Organizations Owned or Controlled by Them

603.601 Policy.

(TL:GS-40; 9-8-95)

(a) It is Department policy not to award contracts to Federal employees, or businesses substantially owned or controlled by Federal employees.

603.602 Exceptions.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 3.602.

603.670 Solicitation provision and contract clause.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the clause at 652.203-70, Prohibition Against the Use of Federal Employees, in all solicitations and contracts, and the provision at 652.203-71, Certification Regarding Federal Employment, in all solicitations.

Subpart 603.7 Voiding and Rescinding Contracts

603.704 Policy.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 3.704.

603.705 Procedures.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 3.705.

PART 604 ADMINISTRATIVE MATTERS

Subpart 604.1 Contract Execution

604.170 Standardized acquisition instrument identification numbering system.

(TL:GS-40; 9-8-95)

(a) *Policy.* (1) It is Department policy that uniform numbers shall be assigned to all DOS procurement instruments, domestic and overseas. The numbering system applies to all contracts, purchase orders, and other related instruments, including solicitation documents and delivery orders. This includes instruments executed by DOS contracting officers on behalf of other federal agencies. It does not include requisitions submitted to a contracting activity, or to instruments awarded under Federal assistance arrangements, e.g., grants, cooperative agreements, and loans.

(2) Numbers shall be placed in appropriate spaces on government forms and appear on all documentation intended to support official contract files.

(b) *Responsibility.* Heads of contracting activities are responsible for enforcing compliance with the uniform numbering system. Heads of contracting activities shall develop and maintain a system for assigning and recording contract numbers that conforms with this section.

(c) *Instrument identification numbers.* A 13-character “alpha numeric” designator shall be assigned to all DOS procurement instruments. Positions (beginning at the left) one through six shall identify the purchasing office; positions seven and eight, the fiscal year in which the number is assigned; position nine, a symbol designating a type of procurement instrument; and positions ten through thirteen, a four-position serial number.

(1) The first six positions shall commence with “S” to designate a DOS-issued contract. The remaining five characters shall identify the activity preparing the instrument. Domestic and overseas contracting activities shall assign the character codes using the five- digit designator from the “Worldwide Procurement Database - Office Codes” (illustrated in the Appendix). Procurement instruments for DOS organizations not listed in the attachment shall contact A/OPE for an assignment of an office code.

(2) The seventh and eighth positions shall be the last two digits of the fiscal year in which the number is assigned.

(3) The ninth position shall be a capital letter assigned to indicate the type of instrument code, as follows:

A - Blanket Purchase Agreement

B - Invitation for Bid

C - Contract (includes letter contracts, contracts incorporating Basic Ordering Agreements, and contracts providing subsequent provisioning, but excludes instruments classified under codes A, D, F, G, H, K, L, M, N, P, or S)

D - Indefinite Delivery type contract

E - Facilities contract

F - Delivery Order (includes orders placed through other Government departments or agencies, or against contracts placed by such departments or agencies)

G - Basic Ordering Agreement

H - Agreement (includes Basic Agreements)

K - Short Form Research contract

L - Lease or Rental

M - Purchase Order

N - Notice of Intent to Purchase

O - Orders placed against DOS contracts

P - Personal services contract

Q - Request for Quotation

R - Request for Proposal

S - Sales contract

(4)(i) The tenth through thirteenth positions shall be the serial number for the instrument. A separate set of serial numbers may be used for any type of instrument listed in (3) above. Each series of numbers for the same activity shall begin with the number 0001 at the start of each fiscal year.

The following illustrates the numbering system for the first number assigned to a fiscal year 1995 contract awarded by the Department of State, Embassy Ottawa, using the above numbering scheme:

SCA52595C0001

(ii) Contracting activities are authorized to use the first digit of the serial number (position 10) to establish discrete series of numbers. For example, the "1000" series may be reserved for Bureau of Consular Affairs requirements (domestic), or the "1000" series may be reserved for Economic section requirements (overseas). Use of discrete series is appropriate generally for activities handling large numbers of transactions and can provide useful management information.

(d) *Solicitation amendment and contract modification numbers.* Solicitation amendments are to be numbered sequentially. Contract modifications shall also be numbered sequentially, beginning with the number 1.

Subpart 604.2 Contract Distribution

604.202 Agency distribution requirements.

(TL:GS-40; 9-8-95)

As necessary, the contracting officer shall distribute reproduced copies of the signed contract or modification to those officers/offices involved in contract administrative support functions, e.g., the Contracting Officer's Representative; the requirements office; the Despatch Agent or other receiving activity, particularly if it is the initial point of contact for receipt of goods or services; and each post or office where the contract shall be performed. Where required by the laws of a foreign country, the original copy of the contract or modification shall be retained at the overseas post. Copies of contracts and modifications awarded as small business or 8(a) set-asides shall be sent to A/SDBU.

Subpart 604.4- Safeguarding Classified Information Within Industry

604.404 Contract clause.

604.404-70 DOSAR contract clauses.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall insert the clause at 652.204-70, Security Requirements, in solicitations and contracts performed outside the United States whenever the contract involves access to classified information ("Confidential", "Secret", or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors or contract employees who are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The contracting officer shall insert the clause at 652.204-71, Security Requirements - Personnel, in solicitations and contracts performed outside the United States.

Subpart 604.6 Contract Reporting

604.601 Record requirements.

(TL:GS-40; 9-8-95)

(a) A/OPE is responsible for transmission of the uniform reporting requirements specified in FAR 4.601(a).

604.602 Federal Procurement Data System.

604.602-70 Worldwide Procurement Data System.

(TL:GS-40; 9-8-95)

(a) The Worldwide Procurement Database (WWPDB) is an automated data collection system, designed to provide DOS contracting activities worldwide with an effective method for collecting, maintaining, and reporting contract activity data. It was established to comply with Federal law.

(b) All domestic and overseas contracting activities shall submit quarterly procurement data through the WWPDB to A/OPE for subsequent transmittal to the Federal Procurement Data System (FPDS).

(c) Domestic and overseas contracting activities shall provide procurement information using the WWPDB and the Worldwide Procurement Database Domestic Users' Guide as of the last day of the fiscal quarter and shall submit the data to the A/OPE not later than:

(1) the close of business on the 20th calendar day following the last day of each fiscal quarter being reported for domestic contracting activities; and,

(2) the close of business on the 30th calendar day following the last day of each fiscal quarter being reported for overseas contracting activities.

Subpart 604.8 Contract Files

604.802 Contract files.

(TL:GS-40; 9-8-95)

Heads of contracting activities shall maintain standard procedures to conform with FAR 4.802 for file location and maintenance.

604.803 Contents of contract files.

604.803-70 Contract file table of contents.

(TL:GS-40; 9-8-95)

(a) It is the Department's policy that all contracts, regardless of dollar value, be properly documented so as to provide a complete record of: pre-solicitation activities; the solicitation, evaluation, and award process; and, the administration of the contract through closeout.

(b)(1) All domestic contracting activities awarding contracts using other than simplified acquisition procedures shall use Form DS-1930, *Domestic Contract File Table of Contents*, and all overseas contracting activities shall use Form DS-1929, *Overseas Contract File Table of Contents*, unless an alternate format has been approved by A/OPE. Both forms are illustrated in Part 653. Both file folders and alphabetical tabs are available from GSA (files: NSN 7530-00-990-8884, six-part Classification Folder; tabs: NSN 7510-00-269-8137).

(2) Each table of contents is organized in chronological order, with six separate sections for each of the six parts of the file folder (from Section I, Pre-Solicitation, through Section VI, Contract and Modifications/Contract Closeout). Alternatively, for ease of contract administration, offices may choose to organize contract files with Section VI of the table of contents at the beginning of the folder, with Section I at the back of the folder.

(3) Form DS-1928, *Contract Administration File Table of Contents* (illustrated at Part 653), may be used by those offices that prefer to have a separate file folder for contract modifications or delivery orders.

604.804 Closeout of contract files.

604.804-70 Contract closeout procedures.

(TL:GS-40; 9-8-95)

(a) This subsection sets forth procedures for closing out contracts awarded using other than simplified acquisition procedures by contracting activities and requirements offices. It is the Department's policy to close out contracts in the time frames prescribed by FAR Part 4.

(b) Contracting activities are responsible for initiating each contract closeout. Contracting activities and requirements offices are jointly responsible for timely compliance with required contract closeout procedures.

(c) The contract closeout process shall begin as soon as possible after the contract is physically completed, which means that the contractor has delivered the required supplies and the Government has inspected and accepted them, or the contractor has performed and the Government has accepted all services required by the contract, and the base period and any option periods exercised have expired.

(d) *Specific procedures.* The normal steps for closing out a physically completed contract shall be as follows. These steps are summarized in the Contract Closeout Checklist, which shall be completed by the contracting officer and included in the contract file. The contracting officer shall indicate any items that are not applicable (e.g., patent reports, royalty reports, etc.).

(1) The contracting officer shall verify that all work under the contract has been completed; obtain the COR's assessment of the contractor's performance; and, conduct an initial funds status review, i.e., determine if the contract has excess funds that should be deobligated by contract modification. Contracting officers shall send a cover memo to the COR, to which should be attached the COR Completion Certificate, the applicable performance evaluation form (depending on whether the contract is for construction (SF-1420), architect-engineering services (SF-1421), or other supplies or services (DS-1771, *Contractor Evaluation Statement*)); and, a final payment and closeout memorandum.

(2) After receipt of the COR's response, and the contractor's release, the contracting officer shall send a final payment memo to the office responsible for payment of invoices/vouchers.

(3) An audit is required for cost-reimbursement contracts over \$250,000, unless available data are considered adequate for a reasonableness determination, in which case the contract file shall be documented with the appropriate rationale. Requests for audits shall be submitted through the Office of the Inspector General. Cost-reimbursement contracts may be closed after receipt of the audit report and resolution of any issues raised. Quick closeout procedures may be followed, as prescribed in FAR 42.708. The contracting officer may request an audit of any contract, if warranted; however, audits should not be requested if the cost of the audit is likely to exceed potential cost recovery, except where 604.803-70).

(7) Upon completion of 8(a) contracts, the contracting officer shall complete the Small Business Administration's Contract Completion Form within ten (10) days of contract completion. One copy shall be forwarded to SBA, one copy shall be retained in the contract file, and one copy shall be sent to A/SDBU.

(8) For classified contracts, the contractor is required to return to the Department all classified material received or generated under the contract, or to destroy all classified material, unless retention is requested and authorized by the Department. The contracting officer shall notify DS/PRD/IN of contract completion, final delivery of goods or services or the termination of the classified contract. The contracting officer fraud or misrepresentation is suspected.

(4) The contracting officer shall send a letter to the contractor requesting release of claims, using the appropriate format. In addition, a Contractor Assignment Letter is required for certain contracts. To determine which format is applicable, contracting officers shall refer to the Payments clause in the contract.

(5) The contracting officer shall reconcile the contract obligations and contractor payments, and then deobligate any excess funds remaining in the contract by issuing a contract modification on a SF-30.

(6) The contracting officer shall verify that all relevant documentation is included in the contract file (see DOSAR shall ensure that any classified material contained in the contract file is properly marked and accounted for.

(9) Illustrations of formats referenced are included in the Appendix.

(e) Contract files that have been closed out shall be retained in accordance with the schedule in FAR 4.805.

(f) Contract files for contracts using simplified acquisition procedures are considered closed when the contracting officer receives evidence of property/services and final payment. Disposal of such files shall be as prescribed in FAR 4.805.

604.805 Disposal of contract files.

(TL:GS-40; 9-8-95)

Heads of contracting activities shall prescribe procedures for handling, storing, and disposing of contract files. Additional guidance on records management may be found in 5 FAM .

Subpart 604.70 Contract Review

604.7001 Policy.

(TL:GS-40; 9-8-95)

The contracting officer shall review each proposed contractual document and its supporting file for completeness and accuracy. Each contract file shall contain all pertinent information applicable to the proposed action. Each contract file should be in sufficient detail to permit reconstruction of all significant events by any subsequent reviewer without referral to the individual responsible for the contractual action.

604.7002 Procedures.

(TL:GS-40; 9-8-95)

(a) Prior to issuance of a solicitation or a solicitation amendment which constitutes a substantive change, award of a contract, or execution of a contract modification, any of which is estimated to exceed the thresholds indicated below, the contracting officer shall forward the proposed contractual action to A/OPE for review. For contract modifications, the contracting officer shall submit such actions in accordance with 643.102-70(b). Modifications exercising contract options, where the options were part of the original solicitation/contract which was reviewed and approved by A/OPE, are exempt from this review requirement:

(1) For domestic contracting activities, all actions over \$5,000,000. There is no review threshold when the contracting activity's quality assurance plan has been approved by A/OPE;

(2) For overseas posts with contracting officers who have been issued standard name warrants, all actions over \$250,000, with the exception of those actions for local guard services, which require review at \$100,000 and above; and,

(3) For overseas posts with contracting officers who have been issued provisional name warrants, all actions over \$100,000.

(4) When calculating the threshold for application of paragraphs (a)(1) through (3) of this section, include the value of the base year plus all option years.

(b) A/OPE shall document the scope and extent of the review and shall submit written recommendations to the contracting officer on each proposed contract action reviewed. In the event the contracting officer and the reviewer cannot reach agreement on the recommendation(s), the contracting officer shall prepare an appeal file to be transmitted to the Procurement Executive. The appeal shall be approved by an individual one management level above the contracting officer prior to its transmission to the Procurement Executive. A resolution shall be worked out between the contracting activity and the Procurement Executive. For purposes of this section, the officer who may transmit the appeal file to the Procurement Executive shall not be the same individual who will sign the contractual document. For overseas posts, where the contracting officer is the head of the contracting activity, the approval authority shall be the Principal Officer.

(c) For post-award reviews, A/OPE shall document the scope and extent of the review and shall submit the results of its findings to the contracting officer for appropriate action.

(d) The Procurement Executive may delegate or waive the review requirements. In such instances, the Procurement Executive shall provide to each head of the contracting activity, as appropriate, a written delegation or waiver of these requirements.

Subpart 604.7003 Procurement Quality Assurance Program

(TL:GS-40; 9-8-95)

(a) *Purpose.* A procurement quality assurance program is essential to the effective operation of each domestic contracting activity, Regional Procurement Support Office (RPSO), and procurements executed by overseas posts. Each domestic contracting activity and RPSO shall develop a quality assurance plan for review and approval of contract actions to ensure that all requirements of law, regulation, Departmental policy, and sound procurement practices are met, the taxpayer's interests are adequately protected, and the Department's mission is well-served. Because of A/OPE's review requirements, the quality assurance plan for overseas posts is effected by A/OPE. This subpart sets forth the minimum requirements of a quality assurance system.

(b) *Contracting activity reviews.* (1) Covered actions. All contract actions above the threshold for using simplified acquisition procedures shall be independently reviewed by at least one qualified contracting professional who did not participate in the contract action. This includes solicitations (including RFQs), contracts, contract modifications, and delivery orders. This requirement is waived for overseas posts and RPSOs that have only one qualified contracting officer.

(2) *Form and scope of review.* The review shall focus on both compliance with statutory/regulatory requirements as well as good contracting practices. Reviews shall be in writing and shall be included in the official contract file along with documentation regarding the actions taken in response to the review. The review shall generally provide for three classes of comments:

“G” (general suggestions for which no corrective action is required);

“COD” (contracting officer’s discretion in resolving the issue);

and “C/R” (correct or resolve with the reviewer).

Reviews should be limited in time to prevent unnecessary procurement lead-time, but thorough in scope, considering all documents in the contract file and all relevant contracting issues. Checklists may be used to facilitate a thorough review, as appropriate.

(3) *Approval.* The solicitation, contract, or contract modification being reviewed shall not be issued until all review comments requiring corrective action are satisfactorily resolved. Waivers shall not be granted except in unusual circumstances, and shall be approved in advance by the head of the contracting activity.

SUBCHAPTER B COMPETITION AND ACQUISITION PLANNING

PART 605 PUBLICIZING CONTRACT ACTIONS

Subpart 605.2 Synopsis of Proposed Contract Actions

605.202 Exceptions.

605.202-70 Foreign acquisitions.

(TL:GS-40; 9-8-95)

(a) *Policy.* In accordance with a Determination and Findings issued by the Assistant Secretary of State for Administration, the requirement for advance CBD notices for the Department's foreign acquisitions awarded by overseas contracting activities is waived. CBD notices may be published for any acquisition where the contracting officer decides that publication would be in the Department's best interests. This waiver shall remain in effect until June 15, 1998.

(b) *Procedures.* Contracting officers at overseas contracting activities are not required to prepare an individual determination and findings to document their decision to waive the CBD notice requirements.

(c) *Competition Requirements.* Nothing in this section waives the requirement to obtain competition as required by FAR Part 6 and DOSAR Part 606. Competition, including the use of written solicitations, shall be obtained in all cases to the extent feasible. If there are known U.S. firms or firms with U.S. affiliations in local residence capable of supplying the required supplies or services, the contracting activity shall ensure that those firms are included in the source list for the acquisition.

(d) *Policy exclusion.* CBD waiver authority does not apply to guard service contracts that exceed \$250,000. Guard service contracts that exceed \$250,000 shall be synopsisized in the CBD. Option year prices shall be included when computing the applicability of this threshold.

605.207 Preparation and transmittal of synopsis.

(TL:GS-40; 9-8-95)

(a)(1) Contracting officers at overseas posts shall submit synopses of proposed contract actions to A/OPE for electronic transmittal to the CBD.

605.207-70 Acquisitions available from only one responsible source.

(TL:GS-40; 9-8-95)

In addition to the information required at FAR 5.207, each synopsis of a proposed acquisition from only one responsible source shall include descriptions of the specific qualifications or capabilities required to perform the work and the information a potential source must submit.

Subpart 605.3 Synopses of Contract Awards

605.303 Announcement of contract awards.

(TL:GS-40; 9-8-95)

(a) Contracting officers shall make information available on awards over \$10 million to the Office of Legislative Affairs in sufficient time for an announcement by 5:00 p.m. Washington, DC time on the day of the award. This requirement applies only to awards made by domestic contracting activities where performance will take place within the United States or its possessions.

Subpart 605.4 Release of Information

605.403 Requests from members of Congress.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the agency head for the purposes of FAR 5.403(a).

605.404 Release of long-range acquisition estimates.

605.404-1 Release procedures.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 5.404-1(a) and the agency head for the purpose of FAR 5.404-1(b).

Subpart 605.5 Paid Advertisements

605.502 Authority.

(TL:GS-40; 9-8-95)

(a) For paid advertisements in newspapers within the United States, the head of the contracting activity is the agency head's designee for the purposes of FAR 5.502(a). For acquisitions by overseas posts necessitating paid advertisements in newspapers outside the United States, the head of the contracting activity is the agency head's designee for the purposes of FAR 5.502(a). When the head of the contracting activity is the contracting officer for the acquisition, no further approvals are necessary.

PART 606 COMPETITION REQUIREMENTS

Subpart 606.1 Full and Open Competition

606.101 Policy.

606.101-70 Acquisitions not synopsisized.

(TL:GS-40; 9-8-95)

As provided in 605.202-70, overseas posts may exempt certain acquisitions from the requirement to synopsisize in the Commerce Business Daily. A *Commerce Business Daily* synopsis is not required for domestic leases, pursuant to 48 CFR 505.202 and 570.202(a).

606.170 Advertising and competition in leasehold acquisitions of real property.

(TL:GS-40; 9-8-95)

(a) *Policy.* Although the FAR does not apply to leasing of real property, it is the policy of the Department of State to maximize competition to the extent practicable in the leasing of real property. Compliance with the market survey requirements as stated in paragraph (d) below satisfies the requirement to promote full and open competition and, furthermore, authorizes the contracting officer to exempt leasehold acquisitions from publication in the Commerce Business Daily.

(b) *Applicability.* This section applies only to the advertisement and competition of leases of real properties at overseas locations which exceed \$25,000, in accordance with the Foreign Service Building Act of 1926 (22 U.S.C. 294, as amended). Leases of real property for domestic locations are obtained through GSA and are not covered by this section, unless otherwise authorized by statute.

(c) *Definitions.* For the purposes of this subsection, the terms are defined as follows:

“Lease” or “leasehold interest in real property” means a conveyance by contract to the Government of the right of exclusive possession of real property for a definite period of time by a lessor, creating a landlord and tenant relationship. It may include services provided by the lessor such as heating, ventilation, air conditioning, utilities, custodial services, and other related services furnished by the lessor.

“Real property” means land and generally whatever is erected or growing upon it or affixed to it as well as the interests, benefits and rights inherent in the land. This term is synonymous with real estate, and includes both office and residential space.

“Lease acquisition” means the acquiring by lease contract with appropriated funds of an interest in real property for use by the Federal Government. Acquisition begins at the point when the agency needs are established and includes the description of requirements to satisfy agency needs, market survey, solicitation, award of lease, lease performance, lease administration, and those technical and management functions directly related to the process of fulfilling agency needs by lease acquisition.

“Lessee” or “tenant” means the United States of America.

“Lessor” or “landlord” means any individual, firm, partnership, trust, association, or other legal entity which leases property to the Government.

“Contract” means lease.

“Contractor” means lessor.

“Fair rental” means the amount of the rental which reasonably can be expected to be paid for the lease of real property as established by competition and/or by a value estimate based on accepted real property appraisal procedures.

“Full and open competition” means permitting all responsible sources to submit offers.

“Responsible source” has the same meaning as in FAR Subpart 9.1.

“Succeeding lease” is a lease secured to cover occupancy of premises without a break in continuous tenancy.

(d) *Market surveys.* Market surveys shall be conducted for all proposed leases. Contracting officers may consider annual market surveys, when lease requirements can be projected. The purpose of the market survey is to canvass the geographic area in which the property is sought and to establish the sources of all available property that potentially meet the selection criteria. The selection criteria shall identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease, and shall state the relative importance the Government places on the evaluation factors or subfactors. The market survey may be conducted by Government employees or by non-government personnel under the direction of a Government employee. The market survey shall include:

(1) Solicitation of information on the availability of leasable property through the use of circulars, foreign newspaper advertisements and consultations (telephonically or in person) with realtors, brokers, owners, and others, as appropriate;

(2) Placement of advertisements pursuant to the authority in FAR 5.502 and DOSAR 605.502, with at least two newspapers or other trade media having the largest relevant circulation in the city concerned. In the event two daily newspapers are not published in the city in which property is to be leased, the advertisement shall be placed in such papers as are published, either on a weekly or daily basis;

(3) Display of notices, to the extent practicable, in a public place at the Embassy. Notices shall be posted no later than the date the solicitation is issued and remain posted for at least 10 days, regardless of the execution date of the lease. Such information shall remain posted until after offers have been received;

(4) Inspection of all offered and available locations that appear to meet the minimum requirements regarding quantity, quality, availability, security and probable cost of the lease; and

(5) Documentation of the survey findings for each property inspected, including the reasons the property was unacceptable and the identity of the interested parties that should be forwarded a copy of the solicitation for offers.

(e) *Competition and negotiations.* (1) The competition requirements of FAR Part 6 apply to the acquisition of leasehold interests in real property.

(2) Contracts involving the acquisition of leasehold interests in real property shall be awarded through the use of full and open competitive procedures (sealed bidding or negotiation), and approved by the appropriate official, unless the use of other than full and open competition is permitted by one of the exceptions in FAR 6.302 or paragraph (f) of this subsection.

(3) The acquisitions of leased property through other than full and open competitive procedures shall be justified in writing and approved in accordance with FAR 6.303 and 6.304 on an individual or class basis in accordance with 22 U.S.C. 294, as amended.

(4) The negotiated method of contracting is the method best suited for acquiring real property through a lease because it is normally necessary to conduct discussions with responding offerors about their proposals, and because factors other than price are typically considered in making the award.

(f) *Exemptions.* (1) *Succeeding lease - general.* Although it is the Department's policy to acquire leased properties through the competitive process, it is recognized that where succeeding leases are involved, competition is not always practical.

(i) *Advertising.* The contracting officer shall publish a notice in local newspapers pursuant to FAR 5.502 and DOSAR 605.502, and post public notices when the continued occupancy of a building will exceed \$25,000 per year. Contracting officers may consider annual notices for succeeding leases in conjunction with market surveys as required by paragraph (d) of this subsection. The notice should normally:

(A) indicate that the Government's lease is expiring;

(B) describe the agency's needs in terms of type and quantity of space;

(C) indicate that the Government is interested in considering alternative space if economically advantageous;

(D) advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding whether it should relocate; and

(E) tell interested parties whom to contact if they are interested in providing property for lease considerations to the Government.

(ii) *Competition determination.* If no potential acceptable locations are identified through the notice or the market survey, the contracting officer shall prepare a justification to negotiate directly with the present lessor. The justification shall be prepared and approved in accordance with FAR 6.3 and should fully document the efforts to locate alternative sources. If potential acceptable locations are identified through the advertisement or market survey and substantial relocation costs are involved, the contracting officer shall conduct a cost analysis to determine whether the duplication of costs to the Government could be recovered through competition. The cost analysis must give consideration to the prices of other potentially available properties, relocation costs, and other appropriate considerations, e.g., utilities, alterations, etc. The prices for other potentially available properties shall be established by requesting the prospective offerors to provide informational quotations for comparison purposes. The prices quoted will be adjusted by the Government for special requirements. A formal solicitation of offers is not required for the purpose of obtaining the informational quotation. The contracting officer shall provide a general description of the Government's needs when requesting informational quotations. If oral quotations are provided, the record shall be documented to reflect, as a minimum, the following information:

- (A) the name and address of the firm solicited;
- (B) the name of the firm's representative providing the quote;
- (C) the price(s) quoted;
- (D) the description of the property for which the quote is provided;
- (E) the name of the Government employee soliciting the quotation; and
- (F) the date of the conversation.

(iii) The informational quotations shall be compared to the present lessor's price, adjusted to reflect the anticipated price for a succeeding lease. Based on the results of the cost analysis, the contracting officer shall:

(A) Prepare a justification for approval in accordance with FAR 6.3 to support the determination to negotiate with the present lessor for continued occupancy on the grounds that it is likely that award to any other offeror would result in substantial relocation costs to the Government that are not expected to be recovered through competition; or

(B) If potential acceptable locations are identified through the advertisement or market survey and relocation costs (including estimated moving costs, telecommunications and security costs, and the estimated cost of alterations, amortized over the full term of the lease) are not significant enough to preclude recovery of such costs through competition, the contracting officer shall develop a solicitation and negotiate with all interested parties.

(2) *Non-market economies*. In non-market economies, where the host government is the only source of leased property, posts shall refer to the exemption cited in FAR 6.302-4 and retain such documentation in the lease file.

(g) *Post-award synopsis*. Post-award publication of lease agreements is not required.

Subpart 606.2 Full and Open Competition After Exclusion of Sources

606.202 Establishing or maintaining alternate sources.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 6.202.

Subpart 606.3 Other Than Full and Open Competition

606.302 Circumstances permitting other than full and open competition.

606.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(TL:GS-40; 9-8-95)

(b)(4) The Procurement Executive is the agency head for the purposes of FAR 6.302-1(b)(4).

606.302-4 International agreement.

(TL:GS-40; 9-8-95)

(b)(2) In accordance with FAR 6.302-4, guard services shall be acquired from the host government only when it is the sole available source.

606.302-6 National security.

(TL:GS-40; 9-8-95)

(b) This subsection applies to all acquisitions involving national security information, regardless of dollar amount. In no case shall information be classified in order to restrict competition. Information may be classified only when its authorized disclosure could be expected to cause damage to national security.

(c)(1) The Chief, Controls Division, Office of Intelligence Liaison, Directorate for Coordination, Bureau of Intelligence and Research is responsible for reviewing and certifying on any proposed acquisitions derived from or funded or administered by intelligence community agencies that involve sensitive compartmented information and ensuring that the provisions of E.O. 12356 and FAR 6.302-6 have been met. The Chief, Information Security Programs Division, Office of Information Security Technology, Bureau of Diplomatic Security, is responsible for reviewing and certifying on all other proposed acquisitions funded by the Department of State that involve national security information and ensuring that the provisions of E.O. 12356 and FAR 6.302-6 have been met. When disclosure of the Department's needs through full and open competition would compromise national security, the Justification for Other than Full and Open Competition shall include the following specific information:

(i) How national security would be compromised if the Department of State's (or other agencies') needs were disclosed in the Commerce Business Daily (CBD);

(ii) Why the CBD synopsis cannot be worded in such a manner that national security would not be compromised;

(iii) Necessity for access to classified information to prepare technical and/or cost proposal and level of security clearance required;

(iv) Necessity for access to classified information to perform the proposed contract and level of security clearance required;

(v) Number and value of contracts that the justification covers; and

(vi) A statement as follows: "I hereby certify that the national security concerns of the referenced acquisition(s) meet the criteria set forth in Executive Order 12356 and FAR 6.302-6."

(2) Any acquisition involving national security information shall be publicized in the Commerce Business Daily unless disclosure of the agency's needs would compromise national security.

(3) The contracting officer is responsible for soliciting offers from as many potential sources as is practicable under the circumstances. However, given the sensitivity required for acquisitions involving national security information, it is expected that requirements offices will work closely with the contracting officer in maximizing competition.

606.302-7 Public interest.

(TL:GS-40; 9-8-95)

The authority to approve the determination prescribed in FAR 6.302-7(c) is reserved to the Secretary of State.

606.303 Justifications.

606.303-1 Requirements.

(TL:GS-40; 9-8-95)

Justifications for contract actions prescribed in FAR 6.303-1(d) shall be forwarded by the contracting officer to A/OPE for transmittal to the Office of the United States Trade Representative.

606.303-2 Content.

(TL:GS-40; 9-8-95)

All justifications shall address the requirements of FAR 6.303-2. A sample Justification for Other than Full and Open Competition for acquisitions by both overseas posts and domestic contracting activities are included in the Appendix. Use of the format for overseas posts is mandatory; domestic contracting activities may develop their own format based on the sample. In addition, sample formats are provided for posts to justify motor vehicle and household appliance purchases made in accordance with the Department's standardization program (see DOSAR 606.370(b)). All applicable approvals are as indicated on the formats. The justification must be completed and signed by the appropriate individuals.

606.304 Approval of the justification.

(TL:GS-40; 9-8-95)

(a)(2) The approval authority for a proposed contract over \$100,000 but not exceeding \$1,000,000 for domestic contracting activities that do not have a competition advocate is the Department Competition Advocate.

(d) The estimated dollar value of all options shall be included in determining the approval level of a justification.

606.304-70 Acquisitions by overseas posts.

(TL:GS-40; 9-8-95)

The Departmental Competition Advocate is the approval authority for the purposes of FAR 6.304(a)(3). This authority is not redelegable. Any such justification must be transmitted through the Principal Officer at the overseas post.

606.304-71 Acquisitions by domestic contracting activities.

(TL:GS-40; 9-8-95)

A/FBO/AP/AD and A/OPR/ACQ are approval authorities for the purposes of FAR 6.304(a)(3).

606.370 Department of State standardization program.

(TL:GS-40; 9-8-95)

(a) It is the Department's policy to promote full and open competition in all procurement actions. The authority at 41 U.S.C. 253(c)(1) shall be used with respect to standardization when only specified makes and models of equipment will satisfy the Department's needs and only one source is available. This policy applies to all acquisitions involving standardization, regardless of dollar amount.

(b) Contracts awarded under the authority at 41 U.S.C. 253(c)(1) shall be supported by the written justification described in FAR 6.303. Sample justifications for motor vehicles and household appliances standardization are included in the Appendix. The contracting officer, requirements office, procuring activity competition advocate, and the Procurement Executive shall approve all Justifications for Other than Full and Open Competition that cite standardization of technical equipment as justification to restrict competition. The Administrative Officer at each post is the procuring activity competition advocate for that post and the requirements office at post is the embassy functional office responsible for identifying the need to contract.

(c) Procurement of specified makes and models of technical equipment and systems is considered other than full and open competition. Such procurements shall be supported by an approved Justification for Other than Full and Open Competition. The justification shall include the content requirements of FAR 6.303-2 and DOSAR 606.303-2. The justification shall also address potential cost savings in areas such as inventory, operations, training, maintenance, repairs, and administrative and management support. Areas of consideration for potential cost savings shall be supported by detailed estimates as attachments to the justification. Justifications shall specify an effective period, which shall bear a reasonable relationship to the

life of the technical equipment. The effective period shall not exceed six years with a review at the end of the first three years. Periodic reviews shall be made during the standardization period to determine whether the standardization should be continued, revised or canceled.

(d) Before approving the standardization, the Procurement Executive shall consider:

(1) The feasibility, from an economic and timely deployment standpoint, of distributing or redistributing, on a selected geographic basis, the equipment and parts already in the supply system;

(2) The practicality or economy of using or developing an agency design that would permit standardization of components and parts;

(3) The practicality of interchanging parts and cannibalizing equipment;

(4) Whether future acquisitions of the selected item of equipment can be effected at reasonable prices;

(5) Whether standardization will appreciably reduce the variety and quantity of parts that must be carried in stock;

(6) Whether standardization will render obsolete large dollar value inventories of equipment and supporting parts already in the supply system, without compensating benefits;

(7) Whether standardization will enhance agency mission capability;

(8) Possible savings in training personnel or in acquiring technical literature;

(9) Whether the standardization will adversely affect existing specifications and standards;

(10) The degree to which the current design of the specified make and model has been changed from the design of the equipment in the supply system; and

(11) In cases where DOS mission capability is not overriding, whether the benefits and/or cost savings anticipated from standardization will equal or exceed those to be expected from competition.

(e) As prescribed in FAR 15.407(b), FAR 52.215-4, Notice of Possible Standardization, may be inserted in solicitations for supplies that subsequently might be standardized.

(f) *Competition considerations.* (1) Equipment shall be chosen from items under GSA (or other contracting activities') indefinite delivery contracts whenever such items will fulfill the Department's requirements.

(2) Whenever practicable, a one-time or multi-year buy of equipment shall be made or priced options shall be placed in the initial contract to procure the remaining requirements.

(3) Consideration shall be given to the development of standardized specifications to expand competition.

(4) The requirement to standardize may exist, which for reasons of compatibility and interchangeability, requires equipment that is only manufactured by one source. This criterion is for use in acquisitions where a particular brand name item is required and an "or equal" will not meet the Government's requirements. Standardization may not be used when there are other manufacturers available who may be able to produce acceptable items even though their products might require some adjustments and modifications. The other manufacturers shall be given the opportunity to compete.

(5) Unless a Justification for Other than Full and Open Competition has been approved by the Procurement Executive citing standardization as justification to restrict competition, contract specifications shall not name a particular product of one manufacturer, or a limited number of manufacturers, unless the specification describes the essential features of the Department's requirements (salient characteristics) so that all potential offerors may know what is acceptable.

(6) Each standardization is a factual determination taking into account the requirements of the agency locations covered, and the availability or suitability of alternatives. For example, standardization on a particular model of automobile at a diplomatic post where automotive repairs are limited and repair parts are difficult to obtain would generally be noncontroversial and reasonable, while a similar standardization at another post might be indefensible. Administrative convenience in dealing with a single vendor is not a sufficient basis for standardization, nor is satisfaction with an incumbent's supplies or services. Standardization programs shall be limited to those necessary to meet the minimum requirements of the Department and shall not be used to circumvent the general requirement for full and open competition.

(7) Acquisitions using standardization as justification for other than full and open competition shall be synopsized in the Commerce Business Daily pursuant to FAR 6.302-1(c)(2).

(g) *Exceptions.* Posts may not establish a formal standardization on foreign vehicles. However, authorization may be granted to purchase foreign vehicles on a case-by-case basis. For approval, a cost benefit analysis must

be submitted to A/OPR/ST/SD that identifies the cost savings of a foreign vehicle over an American vehicle.

Subpart 606.5 Competition Advocates

606.501 Requirement.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the head of the agency for the purposes of FAR 6.501 and designates the Departmental Competition Advocate.

(b) Contracting activity competition advocates have been designated for A/FBO and A/OPR/ACQ. The Departmental Competition Advocate is the activity competition advocate for all other domestic contracting activities.

606.501-70 Overseas posts.

(TL:GS-40; 9-8-95)

The Administrative Officer at each overseas post is the competition advocate for that post.

606.570 Solicitation provision.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the provision at 652.206-70, Competition Advocacy/Ombudsman, in all solicitations over the threshold for using simplified acquisition procedures.

PART 607 ACQUISITION PLANNING

Subpart 607.1 Acquisition Plans

607.102 Policy.

(TL:GS-40; 9-8-95)

It is the Department's policy that every acquisition be conducted and the contract file documented in conformance with the requirements for acquisition planning pursuant to FAR Part 7.

607.103 Agency-head responsibilities.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 7.103.

607.104 General procedures.

607.104-70 Responsibilities.

(TL:GS-40; 9-8-95)

A/OPE is responsible for establishing and maintaining internal procedures to implement the Department's advance acquisition planning system.

Subpart 607.3 Contractor Versus Government Performance

607.304 Procedures.

(TL:GS-40; 9-8-95)

(b) Changes in the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay cost increases shall be transmitted by Procurement Information Bulletins issued by the Procurement Executive.

PART 608 REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 608.0

608.001 Priorities for use of Government supply sources.

(TL:GS-40; 9-8-95)

(a) As required by FAR 8.001(a), Federal Supply Schedules, including the International Federal Supply Schedule, shall be used in preference to commercial sources whenever feasible.

Subpart 608.3 Acquisition of Utility Service

608.302 Applicability.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 8.302(d)(2)(i).

Subpart 608.8 Acquisition of Printing and Related Services

608.802 Policy.

(TL:GS-40; 9-8-95)

(a)(4) In accordance with Section 2(a) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669), overseas printing and binding services may be acquired from sources other than the Government Printing Office.

(b) The DOS central printing authority is the Chief, Publishing Services, Office of Information Services, Deputy Assistant Secretary for Information Services.

PART 609 CONTRACTOR QUALIFICATIONS

Subpart 609.2 Qualifications Requirements

609.202 Policy.

(TL:GS-40; 9-8-95)

The authority prescribed in FAR 9.202(a)(1) is delegated, without power of redelegation, to the head of the contracting agency.

Subpart 609.4 Debarment, Suspension, and Ineligibility

609.403 Definitions.

(TL:GS-40; 9-8-95)

“Debarring official” means the Procurement Executive.

“Suspending Official” means the Procurement Executive.

609.403-70 DOSAR definitions.

(TL:GS-40; 9-8-95)

“Fact-finding official” means the chairperson of a three member fact-finding panel. The panel comprises one representative each from the Office of the Legal Adviser, the contracting activity, and the requirements office. The representative from the Office of the Legal Adviser is the panel chairperson.

“Notice” means a written communication sent by certified mail (return receipt requested) to the last known address of the party, its identified counsel, or its agent. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venture. If no return receipt is received within 10 calendar days of mailing, receipt shall then be presumed. This definition applies to the notice requirements in FAR 9.406-3 and FAR 9.407-3.

609.404 Parties excluded from procurement programs.

(TL:GS-40; 9-8-95)

A/OPE shall accomplish the agency responsibilities prescribed in FAR 9.404(c)(1) through (c)(3). The authority to establish procedures prescribed in FAR 9.404(c)(5) is delegated, without power of redelegation, to the head of the contracting activity.

609.405 Effect of listing.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the agency head’s designee for the purposes of FAR 9.405(a).

(d) In accordance with a FAR class deviation granted by the Procurement Executive, the following actions apply to actions awarded by DOS contracting activities:

(1)(i) Contracting officers at overseas contracting activities may rely on the debarment certification submitted by bidders/offerors (FAR 52.209-5) as proof of eligibility for award when access to the current “Lists of Parties Excluded from Procurement Programs” is not reasonably available. For contracts which require A/OPE review and approval, the contracting officer should request that A/OPE perform the required review if the list is not available.

(4)(i) For procurement actions (both domestic and overseas) that do not exceed the threshold for using simplified acquisition procedures, contracting officers need not consult the “List of Parties Excluded from Procurement Programs” prior to award. The list should be consulted whenever the contracting officer has reason to believe that a proposed contractor may appear on the list.

(ii) Contracting officers at domestic contracting activities shall review the “List of Parties Excluded from Procurement Programs”, either in hard copy or electronic form, prior to award.

609.405-1 Continuation of current contracts.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 9.405-1. The decision whether to terminate a current contract shall be made in consideration of the circumstances listed in 609.405-70.

609.405-2 Restrictions on subcontracting.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 9.405-2.

609.405-70 Termination action decision.

(TL:GS-40; 9-8-95)

(a) Prior to making a decision to terminate, based on the considerations listed below, the contracting officer shall have the proposed action reviewed and approved by:

- (1) the Office of the Legal Adviser;
- (2) an individual one level above the Contracting Officer; and,
- (3) for overseas posts, A/OPE.

(b) *Termination for default.* Termination for default under a contract's default clause is appropriate when the circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of that contract. Debarment or suspension of the contractor for reasons unrelated to the performance of that contract may not support a termination for default.

(c) *Termination for convenience or cancellation.* Termination for convenience or cancellation under appropriate contract clauses should be considered when the contractor presents a significant risk to the Government in completing a current contract and when such termination for convenience or cancellation is determined to be in the Government's best interests. In making this determination, the contracting officer should consider such factors as the -

- (1) Seriousness of the cause for debarment or suspension;
- (2) Extent of contract performance;
- (3) Potential costs to the Government;
- (4) Urgency of the requirement and the impact of the delay; and/or
- (5) Availability of other safeguards to protect the Government's interests

609.406 Debarment.

609.406-1 General.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 9.406-1(c).

609.406-3 Procedures.

(TL:GS-40; 9-8-95)

(a) *Investigation and referral.* (1) DOS employees aware of any cause that might serve as the basis for debarment shall immediately refer those cases through the contracting officer to the debarring official. The debarring official shall immediately refer to the Office of the Inspector General all reported cases that involve possible criminal or fraudulent activities for investigation by that office.

(2) Referrals for consideration of debarment shall include--

- (i) The cause for debarment (see FAR 9.406-2);
- (ii) A statement of facts;

(iii) Copies of supporting documentary evidence and a list of all necessary or probable witnesses, including addresses and telephone numbers, together with a statement concerning their availability to appear at a fact-finding proceeding and the subject matter of their testimony;

(iv) A list of all contractors involved, either as principals or as affiliates, including current or last known home and business addresses and ZIP codes;

(v) A statement of the acquisition history with such contractors;

(vi) A statement concerning any known pertinent active or potential criminal investigation, criminal or civil court proceedings, or administrative claim before Boards of Contract Appeals; and

(vii) A statement from each DOS organizational element affected by the debarment action as to the impact of a debarment on DOS programs.

(b) *Decisionmaking process.* (1) If the contractor does not respond to a debarment notice within 30 calendar days after receipt of the notice, the debarring official may put the debarment into effect.

(2) In response to the debarment notice, if the contractor or its representative notifies the debarring official within 30 days after receipt of the notice that it wants to present information and arguments in person to the debarring official, that official shall chair such a meeting within 20 calendar days of receipt of the request, unless the contractor requests a longer period of time. The oral presentation shall be conducted informally and a transcript need not be made. However, the contractor may supplement its oral presentation with written information and arguments for inclusion in the administrative record.

(3) Pursuant to FAR 9.406-3(b)(2), the contractor may request and shall be entitled to a hearing before the fact-finding panel. The fact-finding panel shall conduct the hearing within 20 calendar days of receipt of the request, unless the contractor requests a longer period of time.

(4) The debarring official shall convene the fact-finding panel for this purpose and shall provide the panel with a copy of all documentary evidence on the matter. Upon receipt of such material, the fact-finding official shall notify the contractor and schedule a hearing date.

(5) In addition to the purposes provided in FAR 9.406-3(b)(2), the hearing is intended to provide the debarring official with findings of fact based on a preponderance of evidence submitted to the fact-finding panel and to provide the debarring official with a determination as to whether a cause for debarment exists, based on the facts as found.

(6) The fact-finding panel shall conduct its hearing in accordance with rules promulgated by the fact-finding official. The rules shall be as informal as is practicable, consistent with FAR 9.406-3(b). The fact-finding official is responsible for making the transcribed record of the hearing, unless the contractor and the fact-finding panel agree to waive the requirement for a transcript.

(7) The fact-finding official shall deliver written findings and the transcribed record, if made, to the debarring official within 10 calendar days after the hearing. The findings shall resolve any facts in dispute based on a preponderance of the evidence presented and recommend whether a cause for debarment exists.

(c) *Notice of proposal to debar.* (1) Upon receipt of a complete referral and after consulting with the Office of the Legal Adviser, the debarring official shall decide whether to initiate debarment action.

(2) When a determination is made to initiate action, the debarring official shall provide to the contractor and any specifically named affiliates written notice in accordance with FAR 9.406-3(c). A copy of the notice shall be provided to the DOS officer who made the referral and to each DOS organizational element affected by the determination.

(3) When a determination is made not to initiate action, the debarring official shall so advise the DOS officer who made the referral.

(d) *Debarring official's decision.* In addition to complying with FAR 9.406-3(d) and FAR 9.406-3(e), the debarring official shall provide single copies of the decision to each DOS organizational element affected by the decision and to the General Services Administration in accordance with 609.404.

609.407 Suspension.

609.407-1 General.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 9.407-1(d).

609.407-3 Procedures.

(TL:GS-40; 9-8-95)

(a) *Investigation and referral.* Investigation and referral shall be accomplished as provided in 609.406-3(a), except that referrals made to the suspending official shall cite causes pertinent to a suspension action (see FAR 9.407-2).

(b) *Decisionmaking process.* (1) If the contractor does not respond to a notice of suspension within 30 calendar days after receipt of the notice, the suspending official may proceed with completion of investigation.

(2) The DOS decisionmaking process for a suspension action pursuant to FAR 9.407-3(b) follow those established for a debarment action (see 609.406(b)), except that the contractor may request and shall be entitled to a hearing before the fact-finding panel only if permitted under FAR 9.407-3(b)(2).

(c) *Notice of suspension.* Notice of suspension shall be accomplished as provided in 609.406-3(a), except that the suspending official shall process the notice in accordance with FAR 9.407-3(c).

(d) *Suspending official's decision.* In addition to complying with FAR 9.407-3(d), the suspending official shall provide single copies of the decision to each DOS organizational element affected by the decision and to the General Services Administration in accordance with 609.404.

Subpart 609.5 Organizational Conflicts of Interest

609.503 Waiver.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 9.503.

PART 610 SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

Subpart 610.0

610.002 Policy.

610.002-70 Metric system implementation.

(TL:GS-40; 9-8-95)

(a) *Policy.* The Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418) requires Federal agencies to establish implementing guidelines pursuant to metric policy established under Sec. 5164 of the Act to adopt the metric system as the preferred system of weights and measurements for United States trade and commerce. This subsection establishes the Department of State metric conversion guidelines for transition from the traditional system to the metric system of weights and measurements.

(b) *Applicability.* This section applies to all DOS procurements, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

(c) *Definitions.*

“Dual systems” means the use of both traditional and metric systems. For example, an item is designated, produced and described in inch-pound values with soft metric values also shown for information or comparison.

“Hard metric” means the use of only standard metric (SI) measurements in specifications, standards, supplies and services.

“Hybrid systems” means the use of both traditional and hard metric values in specifications, standards, supplies and services. For example, an engine with internal parts in metric dimensions and external fittings or attachments in inch-pound dimensions.

“Measurement sensitive” means any item whose application or meaning depends substantially on some measured quantity. For example, measurement sensitive items include product or performance criteria and standards binding on others, such as emission levels, size and weight limitations on items in commerce.

“Metrication” means any act that increases metric system use, including metric training and initiation or conversion of measurement-sensitive processes and systems to the metric system.

“Metric system” means the International System of Units (Le System International d’Unites (SI)) of the International Bureau of Weights and Measures. The units are listed in Federal Standard 376A, Preferred Metric Units for General Use by the Federal Government.

“Soft metric” means the result of mathematical conversion of inch-pound measurements to metric equivalents in specifications, standards, supplies and services. The physical dimensions, however, are not changed.

“Traditional system of weights and measurements” means the predominant weight and measurement system currently used in the United States, also referred to as the “inch-pound system”. The traditional system includes such commonly used units as inch, foot, yard, mile, pint, quart, gallon, bushel, ounce (fluid and avoirdupois), pound, degree Fahrenheit, ampere, candela, and second.

(d) *Procedures.* (1) DOS contracting activities shall implement the metric system in a manner consistent with P.L. 100-418.

(2) All DOS contracting activities shall use the metric system in procurement consistent with security, operations, economic, technical, logistical, training and safety requirements.

(3) The Department shall encourage industry to adopt the metric system by acquiring commercially available metric products and services that meet the Department's needs whenever practical. Toward this end, solicitations for DOS acquisitions shall:

(i) State all measurement sensitive requirements in metric terms whenever possible. Alternatives to hard metric are soft, dual and hybrid metric terms. The Metric Handbook for Federal Officials regarding the selection of proper metric units and symbols is available from the National Technical Information Service (# PB89-226922); and

(ii) Contracting officers shall return all statements of work/specifications that are not expressed in some form of metric terms to the requirements office that prepared the documents, if the contract is expected to exceed \$500,000, unless the requirements office has forwarded to the contracting activity for approval, in a waiver format prescribed by the head of the contracting activity, a justification for the use of non-metric specifications/statements of work. Option year prices shall be considered when computing the \$500,000 threshold. A sample waiver format is illustrated in the Appendix.

(4) Waivers are not required when ordering from Federal Supply Schedules, or if the contract is not expected to exceed \$500,000.

(5) Valid justifications for non-metric specifications/work statements include, but are not limited to:

(i) Existing specifications and standards in inch-pound units unless conversion is necessary or advantageous to the Government. Unnecessary retrofit of existing systems with new metric components shall be avoided if the total cost of the retrofit, including redesign costs, exceeds \$50,000;

(ii) When metric is not the accepted industry system with respect to a business-related activity, soft metric, hybrid or dual system may be used during transition to hard metric; and

(iii) When the use of metric is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

(6) The contracting officer shall review and, if acceptable, approve the waiver prepared by the requirements office prior to the release of a solicitation that incorporates a specification that is not written in some form of metric, if the resultant contract is expected to exceed \$500,000. The waiver shall be placed in the contract file. If the waiver is not approved, the contracting officer shall return it to the requirements office with an explanation.

(7) The Department's direct in-house operating metric conversion costs shall be handled as normal operating expenses rather than as special one time costs or included as a budget line item. However, these costs are to be identified. Identification includes, but is not limited to, the cost of metric aids,

tools, equipment, training and increased cost to develop metric specifications. All contracting activities and requirements offices shall maintain a record of any costs and/or savings brought about by metric conversion.

(8) Bulk (loose, unpacked) materials shall be specified and purchased in metric or dual units.

(9) Measuring devices, shop and laboratory equipment shall be purchased in metric or dual units.

(10) Shipping allowances, bills of lading and other shipping documents shall be expressed in metric or dual units.

(e) *Responsibilities.* (1) The Assistant Secretary of State for Administration is the DOS representative on the Interagency Committee on Metric Policy (ICMP) and ensures the implementation of P.L. 100-418.

(2) The DOS Metric Coordinator (a representative from A/OPE), in conjunction with the DOS Metric Steering Group, shall develop guidelines consistent with policy established by the ICMP. The DOS Metric Steering Group is also responsible for coordinating the dissemination of information within the Department to promote Department employee understanding and adoption of the metric system of measurement.

(f) *Reporting requirements.* (1) All heads of domestic contracting activities and regional bureau executive directors shall submit to the DOS Metric Coordinator, not later than November 1 of each year, a report for the past fiscal year, including:

(i) Significant metric information, milestones, or accomplishments for the previous fiscal year;

(ii) Significant problems encountered in metric conversion;

(iii) Any recommendations regarding metric program policy or activities, including actions planned for the current fiscal year to implement further the metric system;

(iv) Any Departmental operating and contracting costs and/or savings resulting from the implementation of the metric system; and

(v) Other relevant information as requested.

(2) Annual reporting shall cease in the year after full implementation of the metric system by the Department.

(3) The regional bureau report from each executive director shall consist of consolidated metric information from at least ten randomly selected posts per bureau.

(4) The DOS Metric Coordinator shall consolidate the above reports into an annual report and submit the report to the Assistant Secretary for Administration by December 1 of each year. The Assistant Secretary shall present the final report to the Chief Financial Officer by January 1 of each year for submission to Congress as part of the annual budget pursuant to Section 12 of P.L. 100-418.

(g) *Acquisition planning.* Acquisition planning provides a checkpoint for contracting officers to identify barriers to the use of the metric system in procurement specifications. The extent to which the metric system of measurement is used in the preparation of specifications is considered an integral part of acquisition planning. Metric use shall be discussed in all acquisition planning documents.

(h) *Small business considerations.* A/SDBU shall identify any effect this program has on small business concerns.

(i) *Guidance.* Organizational elements within the Department are authorized to issue implementing guidance; provided, that such guidance does not conflict with or otherwise contravene this subsection.

SUBCHAPTER C CONTRACTING METHODS AND CONTRACT TYPES

PART 613 SIMPLIFIED ACQUISITION PROCEDURES

Subpart 613.1 General

613.103 Policy.

613.103-70 Acquisition by overseas posts.

(TL:GS-40; 9-8-95)

Overseas posts shall ensure that the terms and conditions prescribed in FAR Part 13 are added or incorporated by reference on the documents used for purchase orders from U.S. vendors.

Subpart 613.2 Blanket Purchase Agreements

613.203 Establishment of Blanket Purchase Agreements.

613.203-1 General.

(TL:GS-40; 9-8-95)

(a) It is anticipated that Blanket Purchase Agreement (BPA) usage will decrease as a result of the Governmentwide Commercial Purchase Card Program. When BPAs are necessary, the requirements office shall appoint a BPA Administrator, who shall be responsible for:

(1) identifying and forwarding a list of all authorized ordering officials within the organization to the appropriate contracting activity, as well as notifying the contracting activity of any changes in the authorized ordering officials;

(2) verifying that each ordering official tracks BPA usage;

(3) collecting all order registers on a monthly basis and reviewing these registers, within five calendar days after the end of each calendar month, to verify that only authorized officials are placing orders;

(4) forwarding the order registers to the contracting activity on a monthly basis, with summaries of BPA purchases by vendor;

(5) providing a quarterly summary of BPA purchases to the contracting activity in the appropriate format for submission to FPDS;

(6) ensuring that all domestic ordering offices have copies of the BPA Catalog, the Small Purchases Manual, and any other applicable purchasing information (available from the Office of Acquisition); and,

(7) conducting an annual internal review to ensure that authorized BPA procedures are being followed and reporting the results of the review, including needed corrective action, to the head of the contracting activity.

(b) BPAs shall not be used to procure pest control services.

613.204 Purchases under Blanket Purchase Agreements.

(TL:GS-40; 9-8-95)

(c) In accordance with FAR 13.204(c), BPAs shall be awarded to small businesses to the maximum extent possible.

Subpart 613.4 Imprest Fund

613.403 Conditions for use.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 13.403(a).

Subpart 613.5 Purchase Orders

613.501 General.

(TL:GS-40; 9-8-95)

The contracting officer shall distribute copies of each purchase order in conformance with Subpart 604.2.

613.505 Purchase order and related forms.

613.505-1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule - Continuation.

(TL:GS-40; 9-8-95)

(a) The OF-347 and OF-348 shall be mandatory for use by domestic contracting activities for issuing purchase orders and delivery orders, unless ordering against another Federal agency contract which stipulates a different form (e.g., DD-1155, *Order for Supplies or Services*); or, unless the Procurement Executive has approved another form. The OF-347 may also be used as a voucher.

(b) In lieu of the OF-347 and OF-348, DOS overseas contracting activities may use the Optional Form (OF) 206, *Purchase Order, Receiving Report and Voucher*, and Optional Form 206A, *Continuation Sheet* (illustrated at 653.303-206 and 653.303-206A, respectively). When using OF-206, contracting activities may use Optional Form (OF) 127, *Receiving and Inspection Report* (illustrated at 653.303-127), for that purpose.

613.505-70 File folders for purchase orders, delivery orders, and blanket purchase agreements.

(TL:GS-40; 9-8-95)

Contracting officers shall use Forms DST-1918, Purchase Order File; DST-1919, Delivery Order File; and, DST-1920, Blanket Purchase Agreement (BPA) File, to record relevant data and document those purchases, respectively.

613.507 Provisions and Clauses.

613.507-70 DOSAR clauses.

(TL:GS-40; 9-8-95)

In addition to the FAR provisions and clauses required for or applicable to the particular acquisition, each DOS purchase order shall incorporate all DOSAR clauses required for or applicable to the acquisition. All such clauses shall be listed on a separate document and attached to each copy of the purchase order. The document shall be identified by the purchase order number and the name and address of the contracting activity. The DOSAR clauses may be incorporated without setting out full text.

Subpart 613.6-70 Governmentwide Commercial Purchase Card Program

613.601-70 Policy.

(TL:GS-40; 9-8-95)

(a) *Scope.* This subsection sets forth policy for use of the Government purchase card when making small purchases.

(b) *Policy.* It is the Department's policy that:

(1) The purchase card shall be used in preference to other methods of procurement (particularly BPAs) for purchases up to \$2,500;

(2) The purchase card shall be issued primarily to personnel outside of procurement offices to purchase products and services up to \$2,500 quickly with a minimum of paperwork and without having to send an individual requisition to a procurement office; and,

(3) The purchase card may be used in procurement offices for purchases up to \$25,000.

(c) *Procedures.* Specific procedures for implementation shall be developed by each contracting activity that wishes to participate in the program. These procedures shall be approved by A/OPE prior to implementation.

PART 614 SEALED BIDDING

Subpart 614.2 Solicitation of Bids

614.201 Preparation of Invitation for Bids (IFB).

614.201-7 Contract clauses.

614.201-7-70 DOSAR contract clauses.

(*TL:GS-40; 9-8-95*)

(a) Use of English language solicitations and contracts is mandatory unless a deviation has been approved by the Procurement Executive in accordance with 601.470. If any part of a contract is not written in the English language, the contracting officer shall attach an accurate English language translation of such part to the original and each copy of the contract, unless the contracting officer determines such action is infeasible.

(b) When contracting by sealed bidding, the contracting officer shall insert the clause at 652.214-70, Notices, in all solicitations and contracts awarded or performed overseas.

(c) When contracting by sealed bidding, the contracting officer shall insert the provision at 652.214-71, Authorization to Perform, in all solicitations for contracts to be awarded or performed overseas.

Subpart 614.4 Opening of Bids and Award of Contracts

614.402 Opening of bids.

614.402-1 Unclassified bids.

(TL:GS-40; 9-8-95)

After the unclassified bids have been opened pursuant to FAR 14.402-1, the bid opening officer shall announce that the opening of bids has been completed and that all bidders will be notified as soon as possible regarding the award.

614.402-70 Waiver of public opening of bids.

(TL:GS-40; 9-8-95)

Overseas posts may request waiver of the public opening of bids if that activity is inconsistent with local law or legal practice, or with post security. For that purpose, the Procurement Executive must approve a deviation in accordance with 601.470.

614.404 Rejection of bids.

614.404-1 Cancellation of invitations after opening.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 14.404-1(c) is delegated, without power of redelegation, to the head of the contracting activity. The head of the contracting activity shall obtain the concurrence of the Office of the Legal Adviser before making a determination pursuant to this subsection.

614.406 Mistakes in bids.

614.406-3 Other mistakes disclosed before award.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 14.406 is delegated, without power of redelegation, to the head of the contracting activity. In conformance with FAR 14.406-3(f), the head of the contracting activity shall obtain the concurrence of the Office of the Legal Adviser before making any determinations pursuant to this subsection.

614.406-4 Mistakes after award.

(TL:GS-40; 9-8-95)

The authority to make all determinations prescribed in FAR 14.406-4 is delegated, without power of redelegation, to the head of the contracting activity. In conformance with FAR 14.406-4(d), the head of the contracting activity shall obtain the concurrence of the Office of the Legal Adviser before making any determinations pursuant to this subsection.

PART 615 CONTRACTING BY NEGOTIATION

Subpart 615.1 General Requirements for Negotiation

615.106 Contract clauses.

615.106-1 Examination of records clause.

(TL:GS-40; 9-8-95)

See Subpart 625.9 for conditions for omission of the Examination of Records clause.

615.106-70 DOSAR contract clauses.

(TL:GS-40; 9-8-95)

When contracting by negotiation, the contracting officer shall insert the clause at 652.214-70, Notices, in all solicitations and contracts, and the provision at 652.214-71, Authorization to Perform, in all solicitations, under the same conditions prescribed in 614.201-7-70.

Subpart 615.4 Solicitation and Receipt of Proposals and Quotations

615.403 Solicitation mailing lists.

(TL:GS-40; 9-8-95)

Contracting officers shall release copies of solicitation mailing lists in accordance with FAR 14.205-5(a). However, the list of those firms which actually submitted proposals is not releasable. Requests for information other than solicitation mailing lists shall be handled by the Department's Office of Freedom of Information.

615.404 Presolicitation notices and conferences.

(TL:GS-40; 9-8-95)

(c)(1) The Procurement Executive has approved a class deviation from the requirements of FAR 15.404(c)(1). Approval for presolicitation conferences at one level above the contracting officer is not required.

615.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

615.406-1 Uniform contract format.

(TL:GS-40; 9-8-95)

(a) The uniform contract format shall be mandatory for all acquisitions outside the United States, its possessions, its territories, and Puerto Rico, with the exception of those contracts listed in FAR 15.406-1(a)(1) through (8), unless a waiver is granted by the Procurement Executive. The Procurement Executive is the agency head's designee for the purposes of FAR 15.406-1(a)(7).

615.413 Disclosure and use of information before award.

615.413-2 Alternate II.

(TL:GS-40; 9-8-95)

Contracting officers may determine to use the alternate procedures listed in FAR 15.413-2 in cases deemed appropriate. These procedures must be used when releasing proposals outside the Government for evaluation purposes.

(e) Contracting officers shall place the notice specified in FAR 15.413-2(e) on all proposals when using these alternate procedures.

(f) Release of proposals outside the Government is authorized.

(1) The Procurement Executive is the agency head's designee for the purposes of FAR 15.413-2(f)(1).

Subpart 615.5 Unsolicited Proposals

615.504 Advance guidance.

(TL:GS-40; 9-8-95)

(a) The contact points for unsolicited proposals are the heads of the contracting activities.

615.506 Agency procedures.

(TL:GS-40; 9-8-95)

(a) The contact points shall ensure that unsolicited proposals are controlled, evaluated, safeguarded, and disposed of in accordance with FAR Subpart 15.5.

Subpart 615.6 Source Selection

615.604 Responsibilities.

(TL:GS-40; 9-8-95)

(a) The head of the contracting activity is the agency head's designee for the purpose of FAR 15.604(a).

615.607 Disclosure of mistakes before award.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 15.607(c)(3) is delegated, without power of redelegation, to the head of the contracting activity. In conformance with FAR 15.607(c)(3)(ii), the head of the contracting activity shall obtain the concurrence of the Office of the Legal Adviser before making a determination pursuant to this subsection.

615.608 Proposal evaluation.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 15.608(b) is delegated, without power of redelegation, to the head of the contracting activity. The head of the contracting activity shall obtain the concurrence of the Office of the Legal Adviser before making a determination pursuant to this subsection.

615.612 Formal source selection.

(TL:GS-40; 9-8-95)

The authority prescribed in FAR 15.612(b), including the authority to designate a source selection authority, is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 615.8 Price Negotiation

615.804 Cost or pricing data.

615.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

(TL:GS-40; 9-8-95)

The waiver authority prescribed in FAR 15.804-3(i) is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 615.9 Profit

615.902 Policy.

(TL:GS-40; 9-8-95)

(b) It is the Department's policy to use the structured approach for profit/fee analysis contained in the Department of Health and Human Services' (HHS) FAR Supplement (see 48 CFR Chapter 3, Subpart 315.9), for acquisitions awarded by domestic contracting activities and RPSOs. A copy may be obtained from A/OPE. Contracting officers shall follow these procedures. HHS Form 674, Structured Approach Profit/Fee Objective, or an equivalent form, may be used to document the profit/fee analysis. If more than one prenegotiation cost objective is developed (e.g., high and low), a separate form should be completed for each. The contracting officer shall ensure that a written explanation is attached to the form justifying the weights chosen for each cost category or factor. This approach considers the factors outlined in FAR 15.905-1. It should also be noted that this approach exempts, among other actions, architect-engineering and construction contracts, which may be analyzed in accordance with similar procedures conforming to FAR 15.905 established by the head of the contracting activity.

PART 616 TYPES OF CONTRACTS

Subpart 616.0

616.000 Scope of part.

(TL:GS-40; 9-8-95)

The contracting officer may use any of the contract types described in FAR Part 16 for acquisitions made under simplified acquisition procedures. The contracting officer shall document his or her decision to use a contract type in accordance with the requirements of FAR part 16.

Subpart 616.1 Selecting Contract Types

616.102 Policies.

616.102-70 Overseas posts.

(TL:GS-40; 9-8-95)

Pursuant to 601.603-70(a)(1)(i), no authority is delegated to overseas posts to enter into cost-reimbursement, fixed-price incentive, or fixed-price redeterminable contracts, unless the Procurement Executive's approval is obtained. Such requests shall be submitted by the head of the contracting activity on a case-by-case basis.

Subpart 616.2 Fixed-Price Contracts

616.203 Fixed-price contracts with economic price adjustment.

616.203-4 Contract clauses.

(TL:GS-40; 9-8-95)

Contracting officers at domestic contracting activities may use an economic price adjustment clause based on cost indexes of labor or material in accordance with the circumstances listed in FAR 16.203-4(d) and after obtaining the approval of the head of the contracting activity. Overseas posts may use the clause at 652.216-71, Price Adjustment, when procuring continuing services (e.g., guard, janitorial, building maintenance, and gardening). Posts shall obtain A/OPE approval for any price adjustment clause that differs from the clause at 652.216-71.

616.207 Firm-fixed-price, level-of-effort term contracts.

616.207-3 Limitations.

(TL:GS-40; 9-8-95)

The head of the contracting activity is the chief of the contracting office for the purposes of FAR 16.207-3.

Subpart 616.3 Cost-Reimbursement Contracts

616.301 General.

616.301-3 Limitations.

(TL:GS-40; 9-8-95)

(c) The determination and findings prescribed in FAR 16.301-3(c) shall be executed by the contracting officer.

616.306 Cost-plus-fixed-fee contracts.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 16.306(c)(2) is delegated to the head of the contracting activity. This authority may be redelegated.

Subpart 616.5 Indefinite-Delivery Contracts

616.505 Contract clauses.

616.505-70 DOSAR contract clauses.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the clause at 652.216-70, Ordering - Indefinite-Delivery Contract, whenever the clause at FAR 52.216-20, Definite Quantity, or the clause at FAR 52.216-21, Requirements, or the clause at FAR 52.216-22, Indefinite Quantity, is used.

Subpart 616.6 Time-and-Materials, Labor-Hour, and Letter Contracts

616.601 Time-and-materials contracts.

(TL:GS-40; 9-8-95)

(c)(1) A determination and findings is not required for overseas contracting activities which use A/OPE sample solicitations and contracts that contain time-and-materials and/or labor-hour line items; provided, that the samples are used without being significantly changed, e.g., posts are merely "localizing" the solicitations without affecting major provisions.

616.603 Letter contracts.

616.603-2 Application.

(TL:GS-40; 9-8-95)

The contracting officer, after obtaining approval of the head of the contracting activity, is authorized to extend the period to definitize a letter contract in accordance with FAR 16.603-2(c) and when such action is in the best interest of the Government. For this purpose, the contracting officer shall execute a written determination and findings, and submit it to the head of the contracting activity for approval. For cases where the contracting officer is also the head of the contracting activity, the Procurement Executive shall approve the determination and findings.

PART 617 SPECIAL CONTRACTING METHODS

Subpart 617.1 Multiyear Contracting

617.102 Policy.

617.102-2 General.

(TL:GS-40; 9-8-95)

(a) Pursuant to section 14 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2679a), any DOS acquisition for property or services, or both, by any contract funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when--

(1) Appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) The Procurement Executive determines that--

(i) The need of the Government for the property or services being acquired over the period of the contract is reasonably firm and continuing;

(ii) Such a contract will serve the best interests of the Government by encouraging effective competition or promoting economies in performance and operation; and

(iii) Such a method of contracting will not inhibit small business participation.

(b) For overseas posts, the Procurement Executive may delegate to the Principal Officer, on an individual contract or class of contracts basis, the authority to make the determination required by paragraph (a)(2) above. The Principal Officer may not redelegate this authority.

(c) In the event that funds for the continuation of such a contract are not made available into a subsequent fiscal year, the contract shall be canceled. Any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(d) Any multiyear contract awarded pursuant to this subsection shall not exceed 5 years, including options, in accordance with FAR 17.2, unless approved by the Procurement Executive in accordance with DOSAR 617.204(e).

617.102-3 Objectives.

(TL:GS-40; 9-8-95)

(d)(3) The head of the contracting activity is the agency head's designee for the purposes of FAR 17.102-3(d)(3). For those cases where the contracting officer is also the head of the contracting activity, the Procurement Executive shall be the agency head's designee.

Subpart 617.2 Options

617.201 Definitions.

617.201-70 DOSAR definitions.

(TL:GS-40; 9-8-95)

"Evaluated option" means an option that is evaluated for award purposes by adding the total price for the option(s) to the total price for the basic requirement.

"Priced option" means an option where the amount for the option is specified in or is reasonably determinable from the terms of the basic contract, as described in FAR 17.207(f)(1) through (5).

"Unevaluated option" means an option that is not included in the evaluation for award purposes.

"Unpriced option" means an option where the prices for the option quantities or performance periods are not specified in the contract at the time of award and the option prices are negotiated at the time the option is exercised.

617.204 Contracts.

(TL:GS-40; 9-8-95)

(e) The Procurement Executive shall approve any solicitations or contracts which exceed the five (5) year maximum length for supplies or services.

Subpart 617.5 Interagency Acquisitions Under the Economy Act

617.500 Scope of subpart.

(TL:GS-40; 9-8-95)

This subpart establishes Department policy and procedures for the development, documentation, and administration of interagency acquisition agreements under the Economy Act (31 U.S.C. 1535, et seq.). Policy for interagency acquisition agreements issued pursuant to authorities other than the Economy Act is included in the Appendix.

617.501 Definitions.

617.501-70 DOSAR definitions.

(TL:GS-40; 9-8-95)

“Interagency acquisition agreement (IAA)” means a written transaction under which a Federal agency obtains personal property, real property, or services from another Federal agency. IAAs usually involve a transfer of funds between the two Federal agencies. An Economy Act interagency acquisition agreement (EAIAA) is one type of interagency acquisition agreement.

“Requesting agency” means the Federal agency obtaining personal property, real property, or services from another Federal agency through an IAA.

“Servicing agency” means the Federal agency providing personal property, real property, or services to another Federal agency through an IAA. The servicing agency can meet the requesting agency’s needs directly or through issuance of a contract, grant, or cooperative agreement.

617.502 General.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 17.502 is delegated to the head of the contracting activity.

617.502-70 Policy.

(TL:GS-40; 9-8-95)

(a) *Policy.* (1) It is the Department's policy to use Economy Act IAAs (EAIAs) in a manner that promotes Department missions, programs, and responsibilities, is consistent with statutory and regulatory requirements, and conforms to relevant financial management standards.

(i) Funds transferred under an EIAA may not exceed the period of availability of the source appropriation, unless the servicing agency subsequently has incurred valid obligations under the EIAA.

(ii) Any assets acquired with the transferred funds are in the custody of the servicing agency until such time as the EIAA has expired. Disposition of any such assets shall be in accordance with the terms of the EIAA.

(2) An Economy Act IAA (EIAA) shall be used when:

(i) The EIAA is identified and planned by the program office with sufficient time to permit orderly completion of reviews and supporting documentation;

(ii) The EIAA, regardless of whether the Department is the requesting or servicing agency, also is identified and planned in accordance with the Department's acquisition planning cycles;

(iii) Any EIAA requiring a commitment of Department resources, regardless of whether the Department is the requesting or servicing agency, is identified and planned in accordance with the Department's program planning and budget cycles;

(iv) Any EIAA including a transfer of funds into the Department is cleared by the budget office of the program office, in consultation with the Bureau of Finance and Management Policy (FMP); and

(v) Any EIAA affecting Department employment or ceiling positions is cleared by the personnel office of the program office, in consultation with the Bureau of Finance and Management Policy (FMP) and the Bureau of Personnel (PER).

(b) *Scope.* The following transactions do not fall within the scope of this subpart:

(i) Procurement from mandatory sources, including supplies or services obtained from other Federal agencies as authorized or required by law, e.g., excess and surplus stocks from other government agencies, General Services Administration (GSA) Federal Supply Schedules, GSA Federal Information Processing resources schedules, GSA Customer Supply Centers, GSA Stock Catalogs, GSA Federal Supply Service Consolidated Purchase Programs, Federal Prison Industries, Inc., National Industries for the Blind, and the Government Printing Office.

(ii) Contracts, awarded by warranted contracting officers, with the Small Business Administration pursuant to Section 8(a) of the Small Business Act;

(iii) Agreements that do not provide for a subsequent transfer of funds to or from other Federal agencies and do not affect employment ceilings or positions of the Department; and

(iv) Interagency acquisition agreements established pursuant to statutory authority other than the Economy Act, e.g., the State Department Basic Authorities Act, the Omnibus Diplomatic Security and Antiterrorism Act, the Foreign Assistance Act, and the Federal Property and Administrative Services Act (including the section known as the Brooks Act).

(c) *Competition requirements.* An agency may place an Economy Act order with another agency in lieu of undertaking a competitive acquisition; however, the Competition in Contracting Act (41 U.S.C. 253(f)(5)(B)) provides that in no event may an executive agency “procure property or services from another executive agency unless such other executive agency complies fully with the requirements of this subchapter [i.e., competition requirements] in its procurement of such property or services.”

Under the Economy Act, any condition or limitation on the requesting agency’s funds applicable to amounts for procurement apply equally to the interagency acquisition itself or to any procurement processed thereunder.

617.503 Determination requirements.

(TL:GS-40; 9-8-95)

A sample determination and findings for EAIAs is provided in the Appendix to the DOSAR.

617.504-70 Ordering procedures.

(TL:GS-40; 9-8-95)

(a) Department deputy assistant secretaries are authorized to execute Economy Act IAAs. Department contracting officers also are authorized to execute Economy Act IAAs, as prescribed in FAR 17.504(a).

(b) Department of State Form DS-1921, *Award/Modification of Interagency Acquisition Agreement* (illustrated in Part 653), shall be used for all EAIAAs where the Department is the requesting agency. It shall also be used for EAIAAs where the Department is the servicing agency if the requesting agency does not have a similar form that provides the same information.

(c) *EAIAA Review, Authorities, and Responsibilities.* (1) Department requirements offices shall identify and justify EAIAA needs in annual planning documents, including acquisition plans. When both the Department and the other agency are contributing resources, personal property, real property, or services, the requirements office shall determine which agency is the requesting agency based on the preponderant need, i.e., the overall, underlying requirement.

(2) The appropriate Department contracting activity shall handle EAIAA responsibilities prescribed in or pursuant to FAR Subpart 17.5.

(3) The Office of the Legal Adviser shall review and clear all EAIAAs prior to their execution, except for those of the Office of Inspector General (OIG), which shall be reviewed and cleared by the OIG Office of Counsel.

(d) *Preparation, Execution, Distribution, and Administration of EAIAAs.*

(1) The requirements office shall identify all EAIAA requirements in its resource plans, including any or all of the following: program plan, budget plan, financial plan, and acquisition plan. Consultation with the Office of the Legal Adviser to establish the statutory authority (specific statute or Economy Act) for the IAA may be sought at this time.

(2) The requirements office shall appoint an individual to manage each EAIAA.

(i) The EAIAA manager shall coordinate the requirement within the bureau, with FMP and, when appropriate, with PER.

(ii) The EAIAA manager shall obtain appropriate clearances and approvals, as specified in 6 FAM 216.5, and coordinate the requirement with the appropriate contracting activity (see 6 FAM 212) for processing in accordance with FAR Subpart 17.5.

(3) When the Department is the requesting agency for the EAIAA, the determination prescribed by FAR 17.502 shall be made by the head of contracting activity, or his/her designee; provided, that authority is within the head of the contracting activity's or his/her designee's overall procurement authority. The EAIAA manager shall assist in preparing the determination, which includes providing a cost or price analysis to support the determination.

(4) When the Department is the servicing agency for the EAIAA, the appropriate Department contracting activity shall ensure compliance with FAR 17.504(d). The EAIAA manager shall assist in preparing the document(s). The determination discussed in 617.503 is not required of the Department. If the EAIAA manager believes the Department may need to use contractor support to meet its obligations under the EAIAA, the EAIAA manager shall consult with the appropriate contracting activity before the EAIAA is signed.

(5) While IAAs are not required to be reported in the Federal Procurement Data System or otherwise, a uniform numbering system shall be established to distinguish DOS participation in the process. An "alpha numeric" designator shall be assigned to all Department IAAs. The number of characters may vary depending on the office code and sequential number. An illustrative example follows:

S-IAA-95-A/FBO-1

The first four positions shall always commence with "S" and "IAA" to designate a DOS IAA; positions five and six, the fiscal year in which the number is assigned; positions seven and taking up as many spaces as necessary, the office code; and the last position, a sequential number. The sequential number may extend beyond one digit, if necessary. Hyphens shall be inserted as indicated in the example. The example reflects the first IAA issued by the Deputy Assistant Secretary for Foreign Buildings Operations in FY95.

(6) The EAIAA shall also include a description of the property or services required; a not-to-exceed price; funds citation; delivery requirements; payment provisions; a procedure for resolving disagreements, including use of a third-party forum (consent of the third party should be obtained in writing); audit provisions; disposition instructions for any assets acquired; and acquisition authority as may be appropriate (see FAR 17.504(d)). Certification of funds availability shall be obtained through FMP. Payment(s) may be made in advance or on a reimbursable basis (see FAR 17.505).

(7) Unless L/BA has previously cleared the document, the EAIAA shall be submitted to L/BA for clearance. OIG's Office of Counsel shall clear OIG EAIAAs.

(8) After obtaining all necessary clearances, the EAIAA manager shall submit the EAIAA to the appropriate authority for signature. The requesting agency usually signs the EAIAA first and then submits it to the servicing agency for bilateral execution.

(9) All modifications to EAIAAs are processed, cleared, and executed in a similar manner.

(10) If there is only one "original" copy of the EAIAA or modification, that copy shall be forwarded to the paying office. The EAIAA manager shall maintain a distribution list of those Department offices that shall receive a copy of each EAIAA or modification. Any changes to the list shall be maintained by the EAIAA manager as they occur.

(e) The EAIAA manager shall be responsible for administering the Economy Act IAA, including quality control, performance, monitoring and enforcement, and evaluation. The EAIAA manager is not, however, authorized to change the DOS resource commitment(s) expressed in the EAIAA. Only those individuals identified in 617.504-70(a)(4) may execute any such modifications to an EAIAA

Subpart 617.6 Management and Operating Contracts

617.602 Policy.

(TL:GS-40; 9-8-95)

The Assistant Secretary for Administration is the agency head for the purposes of FAR 17.602.

SUBCHAPTER D SOCIOECONOMIC PROGRAMS

PART 619 SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 619.2 Policies

619.201 General policy.

(TL:GS-40; 9-8-95)

(a) The Operations Director, Office of Small and Disadvantaged Business Utilization (A/SDBU), is responsible for performing all functions and duties prescribed in FAR 19.201(c) and (d).

(b) In addition to the requirements of FAR 19.201(b), each head of the contracting activity, or designee, is responsible for establishing in coordination with the A/SDBU Operations Director annual goals for the DOS small and disadvantaged business program.

(c) The Assistant Secretary of State for Administration is the agency head for the purposes of FAR 19.201(c).

(d) Pursuant to FAR 19.201(d), each Small and Disadvantaged Business Utilization Specialist (SDBUS) is responsible for--

(1) Maintaining a program to locate capable small business, small disadvantaged business, and women-owned business sources to fulfill DOS acquisition requirements;

(2) Coordinating inquiries and requests for advice from small business, small disadvantaged business, and women-owned business sources on DOS contracting and subcontracting opportunities and other acquisition matters;

(3) Advising contracting activities on new or revised small business, small disadvantaged business, or women-owned business policies, regulations, procedures, and other related information;

(4) Assuring that small business, small disadvantaged business, and women-owned business concerns are provided adequate specifications or drawings by initiating, in writing, with appropriate technical and contracting personnel to ensure that all necessary specifications or drawings for current and future acquisitions, as appropriate, are available;

(5) Reviewing all proposed acquisitions in excess of the simplified acquisition threshold to assure that small business, small disadvantaged business, and women-owned business sources will be afforded an equitable opportunity to compete and, as appropriate, initiating recommendations for small business or small disadvantaged business set-asides. This includes proposed contract modifications for new or additional requirements which do not fall within the original scope of the contract and which exceed the simplified acquisition limitation. This does not include the exercising of contract options;

(6) Assuring that contract financing available under existing regulations is offered when appropriate and that requests by small business concerns for such financing are not treated as a handicap in the award of contracts;

(7) Providing assistance to the contracting officer in making determinations concerning responsibility of prospective contractors whenever small business concerns are involved;

(8) Participating in the evaluation of a prime contractor's small business and small disadvantaged business subcontracting plans;

(9) Assuring that the participation of small business, small disadvantaged business, and women-owned business concerns is accurately reported;

(10) Attending, as appropriate, debriefings to unsuccessful small business and small disadvantaged business concerns to assist those firms in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(11) Making available to SBA copies of solicitations when so requested;

(12) When a bid or offer from a small business, small disadvantaged business, or women-owned business has been rejected for non-responsiveness or non-responsibility, upon request, aid, counsel, and assist that firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards;

(13) Participating in Government-industry conferences to assist small business, small disadvantaged business and women-owned business concerns, including Business Opportunity/Federal Acquisition Conferences, Minority Business Enterprise Acquisition Seminars and Business Opportunity Committee meetings;

(14) Maintaining a list of supplies and services that have been placed as repetitive small business set-asides;

(15) Participating in the development, implementation, and review of automated source systems to assure that the interests of small business, small disadvantaged business, and women-owned business concerns are fully concerned;

(16) Advising potential sources how they can obtain information about competitive acquisitions;

(17) Providing small business, small disadvantaged business, and women-owned business concerns information regarding assistance available from Federal agencies such as the Small Business Administration, Minority Business Development Agency, Bureau of Indian Affairs, Economic Development Administration, National Science Foundation, Department of Labor and others, including State agencies and trade associations; and

(18) Participating in interagency programs relating to small business, small disadvantaged business, and labor surplus area matters as authorized by the A/SDBU Operations Director.

Subpart 619.4 Cooperation with the Small Business Administration

619.402 Small Business Administration procurement center representatives.

619.402-70 DOS designee.

(TL:GS-40; 9-8-95)

Where the FAR requires action by a Small Business Administration procurement center representative, but one has not been assigned to the DOS contracting activity, the A/SDBU Operations Director shall perform the action so required.

Subpart 619.5 Set Asides for Small Business

619.501 General.

(TL:GS-40; 9-8-95)

(c) Contracting officers shall use Department of State Form DS-1910, *Small Business/Labor Surplus Area Review - Actions Above the Simplified Acquisition Threshold* (illustrated in Part 653), to document set-aside decisions.

619.505 Rejecting set-aside recommendations.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 19.505.

619.506 Withdrawing or modifying set-asides.

(TL:GS-40; 9-8-95)

(b) The Procurement Executive shall resolve disagreements between the A/SDBU Operations Director and the contracting officer.

Subpart 619.6 Certificates of Competency and Determinations of Eligibility

619.602 Procedures.

619.602-1 Referral.

(TL:GS-40; 9-8-95)

The contracting officer shall transmit to the A/SDBU Operations Director concurrently with the submission to the appropriate SBA Regional Office, a copy of the documentation supporting the determination that a small business concern is not responsible, as required by FAR 19.602-1(a).

Subpart 619.7 Subcontracting with Small Business and Small Disadvantaged Business Concerns

619.705 Responsibilities of the contracting officer under the subcontracting assistance program.

619.705-1 General support of the program.

(TL:GS-40; 9-8-95)

It is the Department's policy to incorporate its current fiscal year goals as negotiated with the SBA into all pertinent Department solicitations, in addition to the standard subcontract clauses. Incorporation of the goals does not require that large prime contractors must subcontract, but does require that to the extent they plan to subcontract, specific goals be established for doing business with small, small disadvantaged, and women-owned firms. Where funds are available, an incentive clause such as that found in FAR 52.219-10, Incentive Subcontracting Program for Small and Small Disadvantaged Business Concerns, is encouraged.

619.705-3 Preparing the solicitation.

(TL:GS-40; 9-8-95)

Whenever the clause at FAR 52.219-9, Small Business and Small Disadvantaged Business Subcontracting program, is used in a solicitation for a negotiated acquisition, a notification also must be included in the solicitation. This notification shall advise prospective offerors that subcontracting plans may be requested from all concerns determined to be in the competitive range. To further promote the use of small, disadvantaged, and women-owned firms by large prime contractors, contracting officers are encouraged to consider the adequacy of the subcontracting plans, and/or past performance in achieving negotiated subcontract goals, as part of the overall evaluation of the technical proposals.

619.705-4 Reviewing the subcontracting plan.

(TL:GS-40; 9-8-95)

A/SDBU shall review subcontracting plans to determine if small business and small disadvantaged business concerns are afforded the maximum practicable opportunity to participate as subcontractors. A/SDBU shall recommend to the contracting officer changes needed to subcontracting plans found to be deficient.

619.705-6 Post award responsibilities of contracting officer.

619.705-6-70 Reporting responsibilities.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall forward to the A/SDBU Operations Director a copy of each subcontracting plan that was incorporated into a contract or contract modification. Each contracting activity shall maintain a list of its active prime contracts that contain subcontracting plans.

(b) Contracting officers shall collect subcontracting data from contractors required to establish subcontracting plans in support of small and small disadvantaged business concerns. This data shall be collected annually and semiannually, using Standard Form 295, *Summary Subcontracting Report*, for the annual submissions, and Standard Form 294, *Subcontracting Report for Individual Contracts*, for the semiannual submissions. The head of the contracting activity shall forward these reports to the A/SDBU Operations Director, not later than the 30th day of the month following the close of the reporting period.

619.708-70 Solicitation provisions and contract clauses.

(TL:GS-40; 9-8-95)

The contracting officer shall insert a provision substantially the same as the provision at 652.219-70, Department of State Subcontracting Goals, in solicitations whenever FAR clause 52.219-9, Small Business and Small Disadvantaged Business Subcontracting Plan, is used.

Subpart 619.8 Contracting with the Small Business Administration (the 8(a) Program)

619.801 Definitions.

(TL:GS-40; 9-8-95)

“National buy requirement” includes all 8(a) contracts performed outside the United States and processed by the Small Business Administration.

619.803 Selecting acquisitions for the 8(a) program.

619.803-70 Responsibilities of the Office of Small and Disadvantaged Business Utilization (OSDBU).

(TL:GS-40; 9-8-95)

OSDBU shall review the capabilities of 8(a) concerns and disseminate that information to DOS program and contracting personnel. As necessary, OSDBU shall obtain from the SBA or 8(a) concerns supplemental information for DOS program and contracting personnel.

619.810 SBA appeals.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 19.810.

619.812 Contract administration.

(TL:GS-40; 9-8-95)

(d) The Procurement Executive is the agency head for the purposes of FAR 19.812(d).

619.870 Acquisition of technical requirements.

(TL:GS-40; 9-8-95)

(a) *Offering Letter.* When a decision has been made by A/SDBU and the contracting officer to process an acquisition through the SBA under the 8(a) program, the contracting activity shall promptly send to the applicable SBA office a letter offering the acquisition to the SBA, with an information copy to the SDBUS. The offering letter should transmit the statement of work, purchase description, technical data package, or specifications and such other information deemed necessary by the contracting officer.

(b) The contracting officer has greater latitude in holding discussions with the concerns solicited under an 8(a) program acquisition if under the \$3 million competitive threshold for 8(a) competition than under a non-8(a) program acquisition. Informal assessments of 8(a)s shall be within the parameters of 13 CFR 124.308(g), contained in the Appendix to the regulation. The technical evaluation must be carefully reviewed to determine if any source declared to be unacceptable is capable of being made acceptable.

PART 620 LABOR SURPLUS AREA CONCERNS

Subpart 620.2 Set-Asides

620.201 Set-asides for labor surplus area concerns.

620.201-1 Total set-asides.

(TL:GS-40; 9-8-95)

Contracting Officers shall use Department of State Form DS-1910, *Small Business/Labor Surplus Area Review - Actions above the Simplified Acquisition Threshold*, to document set-aside decisions.

PART 622 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 622.3 Contract Work Hours and Safety Standards Act

622.302 Liquidated damages and overtime pay.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 22.302(c) is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 622.4 Labor Standards for Contracts Involving Construction

622.401 Definitions.

(TL:GS-40; 9-8-95)

(b) Apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen and guards. The terms “apprentice” and “trainee” are defined as follows:

(1) “Apprentice” has the same definition as in FAR 22.401(b)(1).

(2) “Trainee” has the same definition as in FAR 22.401(b)(2).

(3) The definition for “helper” as described in FAR 22.401 paragraph (b)(3) of the definition of “laborers” or “mechanics” is reserved.

622.404 Davis-Bacon Act wage determinations.

622.404-3 Procedures for requesting wage determinations.

(TL:GS-40; 9-8-95)

The cognizant contracting activity (see 601.603) is the contracting agency for the purposes of FAR 22.404-3(b) and (e).

622.404-6 Modifications of wage determinations.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.404-6.

(b)(6) The head of the contracting activity is the agency head's designee for the purposes of FAR 22.404-6(b)(6).

622.404-7 Correction of wage determinations containing clerical errors.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.404-7.

622.404-11 Wage determination appeals.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.404-11.

622.406 Administration and enforcement.

622.406-1 Policy.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.406-1(a).

622.406-3 Additional classifications.

(TL:GS-40; 9-8-95)

(b)(4) FAR 22.406-3 paragraph (b)(4) is reserved.

622.406-8 Investigations.

(TL:GS-40; 9-8-95)

(a) The chief of the contracting activity is responsible for conducting labor standards investigations as prescribed in FAR 22.406-8(a).

(d) The Procurement Executive is the agency head's designee for the purposes of FAR 22.406-8(d).

622.406-9 Withholding from or suspension of contract payments.

(TL:GS-40; 9-8-95)

The authority to suspend contract payments pursuant to FAR 22.406-9(b) is delegated, without power of redelegation, to the head of the contracting activity.

622.406-10 Disposition of disputes concerning construction contract labor standards enforcement.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.406-10(b).

622.406-11 Contract terminations.

(TL:GS-40; 9-8-95)

The cognizant contracting activity is the contracting agency for the purposes of FAR 22.406-11.

622.406-12 Cooperation with the Department of Labor.

(TL:GS-40; 9-8-95)

Any information furnished to the Department of Labor pursuant to FAR 22.406-12(a) shall be submitted through the head of the contracting activity.

Subpart 622.6 Walsh-Healy Public Contracts Act

622.604 Exemptions.

622.604-2 Regulatory exemptions.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.604-2(c)(1).

Subpart 622.8 Equal Employment Opportunity

622.807 Exemptions.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.807(a)(1).

Subpart 622.13 Special Disabled and Vietnam Era Veterans

622.1303 Waivers.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.1303.

622.1308 Contract clauses.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.1308(a)(2) and (c).

Subpart 622.14 Employment of the Handicapped

622.1403 Waivers.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.1403.

622.1408 Contract clause.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 22.1408.

PART 623 ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart 623.1 Pollution Control and Clean Air and Water

623.104 Exemptions.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 23.104(c).

Subpart 623.3 Hazardous Material Identification and Material Safety Data

623.302-70 Policy.

(TL:GS-40; 9-8-95)

Any work which affects the safety and/or health of post personnel, including the handling of hazardous materials, shall comply with the applicable requirements of the Department of State Safety/Health and Environmental Management Resource Guide (6 FAM 606.7). Requirements offices shall ensure that any such contractor operations and activities, whether sponsored by the post or other Department organization, are closely coordinated with the Post Occupational Safety and Health Officer during both planning and implementation phases.

Subpart 623.4 Use of Recovered Materials

623.470 Affirmative procurement program for recovered materials.

623.471 Purpose.

(TL:GS-40; 9-8-95)

This section establishes the Department of State's Affirmative Procurement Program for Recovered Materials in accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962, P.L. 94-580). Section 6002 requires that each agency develop an affirmative procurement plan to assure that items composed of recovered materials will be purchased to the maximum extent practical and which is consistent with Federal procurement law. It requires that preference be given in procurement programs to the purchase of items containing recycled materials identified in guidelines promulgated by the Environmental Protection Agency (EPA). Executive Order 12780, *Federal Agency Recycling and the Council on Federal Recycling and Procurement Policy*, directed implementation of cost effective affirmative procurement programs for recycled items.

623.472 Applicability.

(TL:GS-40; 9-8-95)

The affirmative procurement program is applicable to all domestic acquisition of items currently designated by an EPA guideline or by future guidelines promulgated by EPA. The requirements of this section are not applicable to acquisitions made and/or performed outside the United States or its possessions.

623.473 Definitions.

(TL:GS-40; 9-8-95)

“Affirmative procurement program” is a program which ensures that items composed of recovered materials will be purchased to the maximum extent practicable, consistent with Federal procurement law. There are four components to an affirmative procurement program: (1) a preference program; (2) a promotion program; (3) procedures for requiring, obtaining and verifying estimates and certifications of recovered materials content; and, (4) an annual review and monitoring.

“Designated item” is an item that has been designated in an EPA procurement guideline as an item that is or can be produced using recovered materials whose procurement will advance the purpose of RCRA.

“Minimum-content standard” is the minimum content of recovered materials that a designated item must contain pursuant to specifications implementing the Department’s preference program.

“Postconsumer recovered materials” are waste materials recovered from retail stores, office buildings, homes, and so forth after they have passed through their end usage as a consumer item. Waste paper includes all items from the first two categories above in addition to forest residues, and manufacturing and other wastes.

“Procurement guidelines” are guidelines issued by the EPA pursuant to Section 6002 of RCRA: 1) identifying items that are or can be produced with recovered materials and where procurement will advance the objectives of the Act; and, 2) providing recommended practices for the procurement of such items.

“Recovered materials” are waste materials and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and commonly reused within, an original manufacturing process.

“Unreasonable price” is the price for products containing recovered materials which exceeds alternatives made with virgin materials by 10 percent or more, and which the requirements office initiating the acquisition substantiates as exorbitant.

623.474 EPA guidelines.

(TL:GS-40; 9-8-95)

(a) The EPA has published five guidelines that designate the following items that are or can be produced using recovered materials. Accordingly, contracting activities shall procure items produced using recovered materials to the maximum extent possible when procuring these designated items:

- (1) Cement and concrete containing fly ash, 40 CFR Part 249;
- (2) Paper and paper products, 40 CFR Part 250;
- (3) Lubricating oils, 40 CFR Part 252;
- (4) Retread tires, 40 CFR Part 253; and,
- (5) Building insulation products, 40 CFR Part 248.

(b) Copies of these guidelines, as well as future guidelines promulgated by EPA, may be obtained by calling EPA's Recycled Products Information Clearinghouse at (703) 941-4452.

(c) These guidelines are applicable when the Department purchases more than \$10,000 worth of a designated item, or if the cost of all such items purchased by the Department during the preceding Fiscal Year was \$10,000 or more.

623.475 Responsibilities.

(TL:GS-40; 9-8-95)

(a) The requirements office initiating an acquisition is responsible for determining whether recovered materials should be included in the specifications. Requirements offices may purchase items subject to the guidelines containing other than recovered materials only if:

- (1) The price of items with recovered materials is unreasonable;
- (2) The requirement for items produced with recovered materials results in inadequate competition or adversely affects small business or the Department's metrication program;
- (3) Obtaining items with recovered materials results in unusual and unreasonable delays; or,
- (4) Items produced with recovered materials do not meet all reasonable performance specifications.

(b) If the requirements office chooses to procure designated items that do not contain recovered materials, a written justification must be submitted to the contracting officer. A sample format is provided in the Appendix.

623.476 Preference programs for guideline items.

623.476-1 Preference program for the purchase of cement and concrete containing fly ash.

(TL:GS-40; 9-8-95)

Domestic contracts requiring the purchase of cement and concrete shall specify the performance requirements of the products required under the contract using appropriate standards/specifications when available. Consistent with such performance specifications, such contracts shall allow the contractor to deliver cement and concrete products that contain fly ash, a component of coal resulting from its combustion in electrical generating plants. Architects/Engineers shall specify performance requirements for the concrete to be supplied.

623.476-2 Preference program for building insulation products containing recovered materials.

(TL:GS-40; 9-8-95)

Minimum content standards for building insulation products have been established by EPA guidelines. Domestic contracts for the design of structures that will utilize building insulation products shall require that the Architect/Engineer include, as a design consideration, the Department preference for the use of building insulation produced with recovered materials. Such contracts shall require that the Architect/Engineer specify the type of building insulation products to be supplied and shall require the Architect/Engineer to justify, in writing, the basis of the selected product type if it is not in accordance with the EPA guideline.

623.476-3 Preference program for lubricating oils containing recovered materials.

(TL:GS-40; 9-8-95)

Contracts requiring the supply of lubricating oils, hydraulic fluids and gear oils shall require that products conform to the EPA guideline.

623.476-4 Preference program for retread tires.

(TL:GS-40; 9-8-95)

Contracts requiring replacement tires for automobiles, light and heavy trucks and trailers, and off-road tires shall specify that retreading services shall be obtained if the carcass is retreadable. If such retreading services are not practicable, replacement tires shall be procured in accordance with the EPA guideline.

623.476-5 Preference program for paper and paper products containing recovered materials.

(TL:GS-40; 9-8-95)

(a) All contracts requiring the purchase of paper and paper products shall require that paper and paper products delivered to the Department meet the EPA guideline for recycled paper.

(b) Contracting officers shall require contractors to use recycled paper when submitting reports and other deliverables to the Department, when feasible.

(c) Contracting officers shall require offerors/bidders to submit proposals/bids on recycled paper, double-sided copying to the maximum extent practicable.

623.477 Promotion program.

(TL:GS-40; 9-8-95)

Items composed of recovered materials shall be purchased under all new domestic contracts to the maximum extent practicable. Contracting officers shall promote the fact that the Department is seeking to buy items containing recovered materials at pre-proposal and pre-bid conferences when appropriate.

623.478 Evaluation and certification.

(TL:GS-40; 9-8-95)

(a) Contracting officers shall ensure that vendors estimate in their offers/bids the percentage of recovered material of the total content of designated items to be used under the contract.

(b) Contracting officers shall ensure that contractors certify the percentage of recovered materials contained in designated items actually supplied under the contract.

623.479 Annual review and monitoring.

(TL:GS-40; 9-8-95)

The effectiveness of the preference program shall be reviewed annually by A/OPE. An assessment will be made to determine if greater use of recovered material is possible for the existing requirements or if recovered materials are causing undue delay, lack of competition, unreasonable prices or an unacceptable level of performance.

623.480 Solicitation provisions and contract clauses.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall insert the provision at 652.223-70, Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract, in all domestic contracting activity solicitations using recovered materials in the performance of the work.

(b) The contracting officer shall insert the clause at 652.223-71, Certification of Minimum Content Actually Utilized in the Performance of the Contract, in all domestic solicitations and contracts requiring the use of recovered materials.

(c) The contracting officer shall insert the provision at 652.223-72, Use of Double-Sided Copying in the Submission of Bids or Proposals, in all domestic solicitations for supplies or services.

(d) The contracting officer shall insert the clause at 652.223-73, Use of Double-Sided Copying in the Submission of Reports, in all domestic solicitations and contracts for supplies or services.

(e) The contracting officer shall insert the clause at 652.223-74, Use of Fly Ash as a Partial Replacement for Cement and Concrete, in all domestic solicitations and contracts for Architect/Engineer services for the design of structures or works that will use cement and concrete products, unless the requirements office provides a written justification for using virgin materials.

(f) The contracting officer shall insert the clause at 652.223-75, Use of Recovered Materials in Building Insulation Products, in all domestic solicitations and contracts for Architect/Engineer services for the design of structures or works that will utilize or incorporate building insulation products containing recovered materials, unless the program office provides a written justification for using virgin materials.

(g) The contracting officer shall insert the clause at 652.223-76, Use of Lubricating Oils Containing Re-Refined Oils, in all domestic solicitations and contracts that require the delivery of lubricating oils, unless the program office provides a written justification for using virgin materials.

(h) The contracting officer shall insert the clause at 652.223-77, Use of Retread Tires, in all domestic solicitations and contracts that require the replacement of tires for automobiles, light and heavy trucks and trailers, and off-road vehicles, unless the program office provides a written justification for not using retread tires. This clause does not apply to the purchase of original equipment tires.

(i) The contracting officer shall insert the clause at 652.223-78, Use of Recovered Materials in Paper and Paper Products, in all domestic solicitations and contracts that require the delivery of reports or other paper products, unless the program office provides a written justification for the use of virgin materials.

Subpart 623.5 Drug-Free Workplace

623.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(TL:GS-40; 9-8-95)

The authority to approve the determination prescribed in FAR 23.506(e) is reserved to the Secretary of State.

PART 624 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 624.2 Freedom of Information Act

624.202 Policy.

(TL:GS-40; 9-8-95)

DOS regulations implementing the Freedom of Information Act (5 U.S.C. 552), as amended, are codified in Chapter 1, Department of State, Subchapter R, Access to Information, Part 171, Availability of information and records to the public, of Title 22 of the Code of Federal Regulations (22 CFR Part 171).

PART 625 FOREIGN ACQUISITION

Subpart 625.1 Buy American Act - Supplies

625.102 Policy.

(TL:GS-40; 9-8-95)

(a)(3) The authority to make the determination prescribed in FAR 25.102(a)(3) is delegated, without power of redelegation, to the head of the contracting activity.

(b)(2) The authority to make the determination prescribed in FAR 25.102(b)(2) is delegated, without power of redelegation, to the head of the contracting activity.

625.105 Evaluating offers.

(TL:GS-40; 9-8-95)

The authority to make the determinations prescribed in FAR 25.105 is delegated, without power of redelegation, to the head of the contracting activity.

625.108 Excepted articles, materials, and supplies.

(TL:GS-40; 9-8-95)

A/OPE is the DOS central agency control point for furnishing to the appropriate FAR Council the documentation prescribed in FAR 25.108(b) and (c).

Subpart 625.2 Buy American Act - Construction Materials

625.202 Policy.

(TL:GS-40; 9-8-95)

(a)(2) The authority to make the determination prescribed in FAR 25.202(a)(2) is delegated, without power of redelegation, to the head of the contracting activity.

(b) The authority to make the determination prescribed in FAR 25.202(b) is delegated, without power of redelegation, to the head of the contracting activity.

625.203 Evaluating offers.

(TL:GS-40; 9-8-95)

The head of the contracting activity is the agency head for the purposes of FAR 25.203(a) and (b).

625.204 Violations.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 25.204.

Subpart 625.3 Balance of Payments Program

625.300 Scope of subpart.

625.300-70 Overseas acquisitions.

(TL:GS-40; 9-8-95)

This program applies to acquisitions of supplies and services for use outside the United States regardless of the contractor's location.

625.302 Policy.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 25.302(b)(3) is delegated, without power of redelegation, to the head of the contracting activity. The authority prescribed in FAR 25.302(c) is delegated, without power of redelegation, to the head of the contracting activity.

625.304 Excess and near-excess foreign currencies.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 25.304(c) is delegated to the head of the contracting activity without power of redelegation.

Subpart 625.7 Restrictions on Certain Foreign Purchases

625.703 Exceptions.

(TL:GS-40; 9-8-95)

The authority to approve exceptions for other contracts in excess of the simplified acquisition threshold is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 625.9 Additional Foreign Acquisition Clauses

625.901 Omission of examination of records clause.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the agency head for the purposes of FAR 25.901.

(b) Each determination and findings to omit FAR clause 52.215-1, Examination of Records by Comptroller General, shall be prepared in writing by the contracting officer and submitted to the Procurement Executive for approval.

(c) The Procurement Executive shall forward the approved determination and findings to the requesting contracting activity for inclusion in the contract file, or inform the contracting activity in writing if the determination and findings is not approved, as appropriate.

(1)(ii) The report required by FAR 25.901(c)(1)(ii) shall be prepared and forwarded to the Assistant Secretary of State for Administration by the Procurement Executive.

625.903 Conditions for omission.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 25.903.

SUBCHAPTER E GENERAL CONTRACTING REQUIREMENTS

PART 627 PATENTS, DATA, AND COPYRIGHTS

Subpart 627.2 Patents

627.203 Patent indemnification of Government by contractor.

627.203-6 Clause for Government waiver of indemnity.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 27.203-6.

Subpart 627.3 Patent Rights Under Government Contracts

627.303 Contract clauses.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 27.303. Determinations issued by the Procurement Executive shall be reviewed by the Office of the Legal Adviser.

627.304 Procedures.

627.304-1 General.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 27.304-1. Questions regarding fact-finding procedures as specified in FAR 27.304-1(a)(4) shall be referred to A/OPE. Determinations issued by the Procurement Executive shall be reviewed by the Office of the Legal Adviser.

627.304-5 Appeals.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 27.304-5. Questions regarding the appeals procedure as specified in FAR 27.304-5(b) shall be referred to A/OPE.

PART 628 BONDS AND INSURANCE

Subpart 628.1 Bonds

628.101 Bid guarantees.

628.101-1 Policy on use.

(TL:GS-40; 9-8-95)

(c) The Procurement Executive is the agency head's designee for the purposes of FAR 28.101-1(c).

628.106-6 Furnishing information.

(TL:GS-40; 9-8-95)

(c) The head of the contracting activity is the agency head's designee for the purposes of FAR 28.106-6(c).

Subpart 628.2 Sureties

628.203 Acceptability of individual surety.

(TL:GS-40; 9-8-95)

(g) Evidence of possible criminal or fraudulent activities by an individual surety shall be referred to the Office of the Inspector General.

628.203-7 Exclusion of individual sureties.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 28.203-7.

Subpart 628.3 Insurance

628.305 Overseas workers' compensation and war-hazard insurance.

(TL:GS-40; 9-8-95)

(a) It is the Department's policy that acquisitions for services, including construction but excluding personal services contracts, which require contractor personnel to perform work outside of the United States, shall include the contractual obligation for coverage under the Defense Base Act (42 U.S.C. Sections 1651-1654, as amended). For the purpose of this section only, "contractor personnel" includes individuals who are either:

- (1) United States citizens or residents, or
- (2) Hired in the United States or its possessions.

(b) The Department of State has entered into a contract with an insurance broker and carrier to provide Defense Base Act insurance, at a fixed rate for services and construction, to cover DOS contracts which will require performance overseas by United States citizens or residents or those employed in the United States. In countries where local nationals and/or third country nationals will be employed to perform the contract, such countries may be waived by the Secretary of Labor. Whenever such insurance is required under the contract, the contracting officer shall insert:

(1) The clause at 652.228-71, Worker's Compensation Insurance (Defense Base Act) - Services;

(2) The clause at 652.228-72, Worker's Compensation Insurance (Defense Base Act) - Construction; and,

(3) The clause at 652.228-73, Waiver of Defense Base Act.

(c) Upon award of a contract which requires Defense Base Act insurance, the contracting officer shall notify the successful offeror of the name of the insurance broker from which the contractor should acquire insurance.

(d) The authority to request a waiver from the Secretary of Labor of a particular country, as set forth in FAR 28.305(d), is reserved to the Secretary of State. The Department has obtained blanket waivers from the Secretary of Labor for all contracts for services, including construction, awarded and/or performed overseas. The waivers apply to all individuals who are not employees hired in the United States, or who are not United States citizens or residents.

628.306 Insurance under fixed-price contracts.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall insert the provision at:

(1) 652.228-74, Defense Base Act Insurance Rates - Limitation - Services, in solicitations for fixed-price service contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States; or

(2) 652.228-75, Defense Base Act Insurance Rates - Limitation - Construction, in solicitations for fixed-price construction contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States.

628.307 Insurance under cost-reimbursement contracts.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the provision at 652.228-76, Defense Base Act Insurance Rates - Limitation - Cost-Reimbursement, in solicitations for cost-reimbursement type contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States.

628.307-70 Insurance under labor- hour and time-and-materials contracts.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the provision at 652.228-77, Defense Base Act Insurance Rates - Limitation - Labor-Hour and Time-and-Material, in solicitations for labor-hour or time-and-material type contracts to be performed outside the United States by United States citizens, residents, and/or those hired in the United States.

Subpart 628.70 Indemnification

628.7001 DOSAR contract clause.

(TL:GS-40; 9-8-95)

(a) Contractors should not ordinarily be required to assume risks which a private buyer would guard against through insurance. There may be occasions, however, when a contractor's assumption of such risks is in the best interest of the Government. The clause in paragraph (b) below is authorized for use on those occasions. In the determination of its use, the contracting officer should weigh the advantages it provides against the likelihood of a resultant increase in the contract price.

(b) The contracting officer shall insert the clause at 652.228-70, Indemnification, in solicitations and contracts when it is determined that the contractor's assumption of risk is in the best interest of the Government.

PART 629 TAXES

Subpart 629.1 General

629.101 Resolving tax problems.

(TL:GS-40; 9-8-95)

In certain instances, acquisitions by posts are exempt from various taxes in foreign countries. Contracting officers shall ascertain such exemptions and take maximum advantage of them.

Subpart 629.2 Federal Excise Taxes

629.202 General exemptions.

629.202-70 Exemptions from other Federal taxes.

(TL:GS-40; 9-8-95)

Taxable articles purchased for presentation abroad as gifts to foreign dignitaries and taxable articles purchased for presentation as gifts to foreign dignitaries visiting in the United States but which are to be taken out of the United States may be exempt from retail taxes or manufacturers excise taxes, in accordance with the letter of October 18, 1963, from the Chief, Excise Tax Branch, Internal Revenue Service.

Subpart 629.3 State and Local Taxes

629.302 Application of State and local taxes to the Government.

(TL:GS-40; 9-8-95)

The Office of the Legal Adviser is the agency-designated counsel for the purposes of FAR 29.302(a).

629.303 Application of State and local taxes to Government contractors and subcontractors.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 29.303(a) is delegated, without power of redelegation, to the head of the contracting activity. The Office of the Legal Adviser is the agency-designated counsel for the purposes of FAR 29.303(c).

Subpart 629.4 Contract Clauses

629.401 Domestic contracts.

629.401-70 DOSAR contract clause.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the clause at 652.229-71, Excise Tax Exemption Statement for Contractors Within the United States, in solicitations and contracts if the prospective contractor is located inside the United States and the acquisition involves export of supplies to an overseas post.

PART 630 COST ACCOUNTING STANDARDS

Subpart 630.2 CAS Program Requirements

630.201-5 Waiver.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 30.201-5(c).

PART 631 CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 631.1 Applicability

631.101 Objectives.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 31.101.

PART 632 CONTRACT FINANCING

Subpart 632.4 Advance Payments

632.402 General.

(TL:GS-40; 9-8-95)

(b) Advance payments shall be authorized sparingly. Contracting officers should consider the use of partial payments, fast payments, or more frequent payments as alternatives to advance payments.

(c)(1)(iii) The authority to make the determination prescribed in FAR 32.402(c)(1)(iii) is delegated, without power of redelegation, to the head of the contracting activity. For acquisitions by overseas posts, the head of the contracting activity shall obtain the concurrence of the Procurement Executive before making a determination pursuant to this section.

632.407 Interest.

(TL:GS-40; 9-8-95)

(d) The Procurement Executive is the agency head's designee for the purposes of FAR 32.407(d).

Subpart 632.7 Contract Funding

632.703 Contract funding requirements.

632.703-3 Contracts crossing fiscal years.

(TL:GS-40; 9-8-95)

(a) The State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2696(e)), allows funds from annual appropriations to extend beyond the fiscal year in which the acquisition was funded. This authority may be used for acquisitions of supplies or services, regardless of dollar amount or contract type. Use of this authority requires that:

(1) The acquisition normally would be considered severable (i.e., the services are repetitive and can be started or stopped any time; would normally be funded and performed within a fiscal year; and are not services integral to the creation of an end product. An example is janitorial services.);

(2) The base performance period is twelve months, begins in the current fiscal year, and crosses into the next fiscal year; and,

(3) Full funding for twelve months is available in the current year.

(b) If the acquisition involves more than one source of funds, the contract shall be priced to identify the source of funds (by allotment) with the relevant portion of the total supplies or services. For current Department contracts, bilateral modifications are authorized where necessary to convert to a performance period that crosses fiscal years, as long as the requisite funding is available as described in paragraph (a), and provided that the total contract length does not increase.

(c) Use of this authority shall be documented in the contract file and be included as part of the Advance Acquisition Plan and Price Negotiation Memorandum. If neither document is relevant to the acquisition, the contracting officer shall prepare a written document to the file indicating compliance with this subsection.

(d) For acquisitions conducted by overseas posts that are funded by another agency, the contracting officer shall ensure that funding for the full twelve-month period is available at time of award if the authority in 22 U.S.C. 2696(e) will be used.

Subpart 632.8 Assignment of Claims

632.803 Policies.

(TL:GS-40; 9-8-95)

(b) The assignment of claims shall be prohibited for all personal services contracts. The assignment of claims shall also be prohibited for all contracts awarded and performed overseas, unless approval is received from the Procurement Executive.

Subpart 632.9 Prompt Payment

632.903 Policy.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 32.903 is delegated, without power of redelegation, to the head of the contracting activity. Before making a determination concerning early invoice and contract financing payments, the head of the contracting activity shall consult with the Office of Fiscal Operations Director, or designee.

632.908 Contract clauses.

(TL:GS-40; 9-8-95)

(a) The contracting officer may insert a clause substantially the same as the clause at 652.232-70, Payment Schedule and Invoice Submission (Fixed-Price), in fixed-price type solicitations and contracts.

(b) The contracting officer may insert a clause substantially the same as the clause at 652.232-71, Voucher Submission (Cost-Reimbursement), in cost-reimbursement type solicitations and contracts.

PART 633 PROTESTS, DISPUTES, AND APPEALS

Subpart 633.1 Protests

633.102 General.

(TL:GS-40; 9-8-95)

All communications relative to protests filed with the General Accounting Office (GAO) or the General Services Administration Board of Contract Appeals (GSBCA) shall be coordinated with the Office of the Legal Adviser.

633.103 Protests to the agency.

(TL:GS-40; 9-8-95)

For protests filed with the Department and received before award, the contracting office shall obtain the advice of the Office of the Legal Adviser before making the determination prescribed in FAR 33.103(a).

633.104 Protests to GAO.

(TL:GS-40; 9-8-95)

(a) *General.* (1) Upon being telephonically advised by the GAO of the receipt of a protest, before or after award, the Office of the Legal Adviser shall inform the appropriate head of the contracting activity, who shall immediately notify the contracting officer. For protests concerning ADP acquisitions, the Office of the Legal Adviser shall also inform the Deputy Assistant Secretary for Information Management. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Legal Adviser shall promptly provide the same to the head of the contracting activity involved, who shall promptly provide a copy to the contracting officer and request a written report in conformance with FAR 33.104(a)(2).

(2) In addition to the requirements in FAR 33.104(a)(2), the report responsive to the protest shall be appropriately titled and dated, shall cite the GAO file number, and shall be prepared and signed by the contracting officer. The contracting officer shall prepare the report with the assistance of the Office of the Legal Adviser. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, the report shall include an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The head of the contracting activity shall submit to the Office of the Legal Adviser an original and two complete copies of the contracting officer's report. The contracting officer shall provide one complete copy to each interested party who responded to GAO, to the contracting officer, or to the Office of the Legal Adviser pursuant to the notification prescribed in paragraph (a)(3) below. In submitting the report to GAO, the Office of the Legal Adviser shall identify all parties to whom the report has been furnished.

(3) As prescribed in FAR 33.104(a)(3) and 4 CFR 21.3, the contracting officer shall promptly notify all interested parties, including offerors (or the contractor if the protest is after award) involved in or affected by the protest, that a protest has been filed with the GAO and the basis for the protest. The contracting officer shall place a written record of such notifications in the contract file. The contracting officer shall promptly transmit by letter a copy of the protest to all interested parties previously notified and include a statement requiring furnishing of views and information directly to GAO. The contracting officer shall send copies of such cover letters concurrently to the Office of the Legal Adviser. Cover letters shall contain a specified period of time for submission of comments, in accordance with FAR 33.104(a)(3), and include instructions that any comments submitted to GAO should also be submitted simultaneously to the contracting officer and the Office of the Legal Adviser. Materials submitted by the protester may be withheld from interested parties in accordance with 4 CFR 21.3(b).

(4) All DOS personnel shall handle protests on a priority basis. If the specific circumstances of the protest require a longer period than allowed under FAR 33.104(a)(3), the head of the contracting activity shall immediately notify the Office of the Legal Adviser, which shall prepare a written request for extension of the period in accordance with 4 CFR 21.3(d). The head of the contracting activity shall deliver the protest report to the Office of the Legal Adviser within 15 work days from the date of the telephonic notification by the Office of the Legal Adviser. For reports involving use of the 10 work day express option provided at FAR 33.104(a)(4), the Office of the Legal Adviser shall establish the report delivery date after consultation with the head of the contracting activity.

(b) *Protests before award.* If a protest before award has been filed with GAO and the contracting officer determines in writing that it is necessary to make an award under the circumstances prescribed in FAR 33.104(b)(1), the contracting officer shall first obtain advice from the Office of the Legal Adviser. The contracting officer shall submit the written determination to the head of the contracting activity for approval.

(f) *Notice to GAO.* The authority to submit the report prescribed in FAR 33.104(f) is delegated, without power of redelegation, to the head of the contracting activity. The report shall be submitted to the Comptroller General through the Office of the Legal Adviser.

633.105 Protests to GSBCA.

(TL:GS-40; 9-8-95)

(a) Upon receipt of a copy of a protest to GSBCA, the contracting officer or the official designated in the solicitation shall immediately notify the Office of the Legal Adviser and the Deputy Assistant Secretary for Information Management. The contracting officer is responsible for compliance with the requirements in FAR 33.105(a)(2). The contracting officer shall include in the contract file a record of such notifications to all parties and related correspondence with GSBCA. The contracting officer shall provide to the Office of the Legal Adviser a copy of the list of interested parties notified, simultaneously with submission of the list to the GSBCA.

(b) The contracting officer shall submit to the Office of the Legal Adviser an original and two copies of the protest file, documented in conformance with FAR 33.105(b), within 8 work days after the filing of a protest. The contracting officer shall also provide a complete copy of the file to the protester and all other interested parties within 10 work days after filing of the protest. The protest file shall be organized to comply with the requirements of Rule 4(b) of the GSBCA rules of Procedure (48 CFR Ch. 61). The Office of the Legal Adviser shall then submit the file to the GSBCA within 10 work days after the filing of the protest.

(c) The Office of the Legal Adviser shall represent the contracting officer at any hearing on suspension of the agency's delegation of procurement authority or at any hearing on the merits of the protests. The Office of the Legal Adviser shall notify the contracting officer and the Deputy Assistant Secretary for Information Management of the results of any hearing.

(d) The authority to execute the determination and findings (D&F) prescribed in FAR 33.105(d)(2) is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 633.2 Disputes and Appeals

633.203 Applicability.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 33.203(b).

633.211 Contracting officer's decision.

(TL:GS-40; 9-8-95)

(a) In the second sentence of FAR 33.211(a)(4)(v), contracting officers shall replace “the Board of Contract Appeals” with “Armed Services Board of Contract Appeals, Skyline 6, 5109 Leesburg Pike, Falls Church, VA 22041.”

(b) Prior to issuing a contracting officer’s final decision, the contracting officer shall obtain assistance, as appropriate, from the Office of the Legal Adviser.

633.214-70 Alternative dispute resolution.

(TL:GS-40; 9-8-95)

(a) *Policy.* The Department’s goal is to resolve contract disputes before the issuance of a contracting officer’s final decision under the Contract Disputes Act. Contracting officers shall consider all possible means of reaching a negotiated settlement, consistent with the Government’s best interests, before issuing a final decision on a contractor claim under the process outlined in FAR 33.206 through 33.211.

(b) *When to use ADR.* (1) *Factors favoring ADR.* Contracting officers should consider using ADR in those cases where:

- (i) Only facts are in dispute;
- (ii) The facts are clearly not favorable to the Government;
- (iii) The anticipated costs (in time and money) are less than the anticipated costs of litigation;
- (iv) Settlement attempts have reached an impasse;
- (v) ADR techniques have been used successfully in similar situations;
- (vi) There is a need for independent expert analysis; or,
- (vii) The claim has merit but its value is overstated.

(2) *Factors disfavoring ADR.* The following circumstances do not favor use of ADR:

- (i) Cases involving disputes controlled by clear legal precedent, making compromise difficult;
- (ii) The resolution will have a significant impact on other pending cases or on the future conduct of Department business;
- (iii) The dispute is primarily over issues of law;

- (iv) A decision of precedential value is needed;
- (v) A significant policy question is involved;
- (vi) A full public record of the proceeding is important;
- (vii) The outcome could significantly involve persons who are not parties to the contract;
- (viii) The costs of pursuing an ADR procedure (in time and money) exceed the cost of litigation;
- (ix) The nature of the case may cause ADR to be used merely for delay or discovery; or,
- (x) The case involves criminal violations.

(3) *Initial action.* Immediately upon receipt of a claim, the contracting officer shall send a letter acknowledging receipt of the claim and soliciting the contractor's views on submitting this claim for ADR. A sample letter is provided in the Appendix. In every dispute, the first step toward resolution shall be unassisted negotiations, in which the parties try to work out the disagreement among themselves. If this fails, before issuing a final decision, the contracting officer shall consult first with the head of the contracting activity, and contact the Office of the Legal Adviser and A/OPE to determine whether the disagreement appears susceptible to resolution by ADR. Consideration shall be given to pursuing additional fact finding or designating a neutral expert in the disputed issue to provide an advisory opinion.

(c) *Methods of ADR.* If the initial action to resolve the dispute fails, and the contracting officer issues a final decision which is appealed, ADR may still be feasible. The ASBCA issues a notice regarding ADR to all contractors who file appeals under the Contract Disputes Act. This notice describes the following ADR techniques, which contracting officers are urged to discuss with contractors at any time:

(1) *Settlement judge.* A settlement judge is either an administrative judge or hearing examiner who is appointed by the parties in dispute for the purpose of facilitating settlement. The agenda is flexible and based on the specifics of the individual dispute. By holding a frank, in-depth discussion of the strengths and weaknesses of each party's position, the settlement judge may be able to foster a settlement of the dispute. The settlement judge may meet with the parties jointly or individually, and the settlement judge's recommendations are not binding. Typically, the settlement judge's opinions, based on his or her experience in handling prior disputes, will help the parties realize whether their arguments have merit or not.

(2) *Minitrial*. A minitrial is not an actual trial but rather a flexible, expedited, but structured procedure in which each party presents an abbreviated version of its position both to a neutral advisor (who may be appointed by the ASBCA) and to principals of the parties who have full contractual authority to conclude a settlement. The parties mutually decide on the form of presentation without regard to traditional judicial proceedings or rules of evidence. An advance agreement by the parties specifies the procedure to be followed in making presentations, as well as the role of the neutral advisor. Upon conclusion of the presentations, settlement negotiations are conducted. The neutral advisor may assist the parties in negotiating settlement, including making non-binding recommendations.

(3) *Summary trial with binding decision*. A summary trial with binding decision is a procedure in which the scheduling of an appeal is expedited and the parties try their appeal informally before an administrative judge or panel of judges. The length of the trial and the time for presentation and decision are tailored to the needs of the particular case. Trial procedures and rules applicable to appeals are modified or eliminated to expedite resolution of the appeal. The parties must agree, however, that all decisions, rulings, and orders by the judge(s) are final, conclusive, and not appealable, and may not be set aside, except for fraud. A summary “bench” decision is issued at the conclusion of the trial or a summary written decision will be issued within ten (10) days of either the trial's conclusion or receipt of a trial transcript.

(4) *Mediation*. Mediation is a process in which a neutral and impartial third party assists the Government and the contractor in conflict to negotiate an acceptable settlement of contested issues. The mediator is jointly selected and is asked by the disputing parties to assist them to reach a voluntary agreement. The mediator has no decisionmaking authority and cannot impose a decision. Mediation assistance involves working with the parties to improve their communications, clarify or interpret data, identify key issues to be discussed, design an effective negotiation process, generate settlement options, or help to identify or formulate areas of agreement. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-3, Mediation, September 1991; and Administrative Conference of the U.S., Mediation: A Primer for Federal Agencies, available from A/OPE.

(5) *Arbitration*. Non-binding arbitration is a process in which a dispute is jointly submitted by the Government and a contractor to an impartial and neutral person or panel who provides a written, non-binding opinion used as a guide for negotiations toward a settlement. Although the Administrative Dispute Resolution Act of 1990 (P.L. 101-552) allows agencies to use binding arbitration, the law provides that the agency head may vacate any arbitration award within 30 days after it is served on all parties. For this reason, non-binding arbitration is preferable. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-2, Non-Binding Arbitration, September 1990, available from A/OPE.

(6) *Partnering*. Partnering involves an agreement in principle to share the risks involved in completing a project, and to establish and promote a partnership environment. Partnering itself is not a contractual agreement and it does not create any legally enforceable rights, but instead partnering seeks to create a new cooperative attitude in completing Government contracts. The three basic steps in partnering are:

(i) Establish the new relationship through personal contact among the principals for the Government and the contractor before the work begins;

(ii) Prepare a joint statement of goals establishing common objectives in specific detail for reaching the goals; and,

(iii) Identify specific dispute prevention processes designed to head off problems, evaluate performance, and promote cooperation. Additional information is available in Army Corps of Engineers IWR Pamphlet 91-ADR-P-4, *Partnering*, December 1991, available from A/OPE.

(d) *ADR procedures*. The ADR method shall be selected voluntarily by both the Government and the contractor. Both parties shall agree on the procedures to be followed, including the agenda and amount of time allowed for each party to present its case. The parties may choose not to have a written transcript or hearing on the record, as this might inhibit settlement. Also, the decision rendered, if any, should not be considered to establish any precedent for future litigation unless the parties agree otherwise. In cases where the parties agree to pay jointly for a third-party neutral advisor, it is recommended that the parties and the advisor agree on a fair and reasonable price. The Government would then issue a simplified acquisition (if the dollar amount does not exceed the simplified acquisition limitation) for 50% of the agreed price, and the advisor would submit separate invoices (each for 50% of the price) to the Government and the contractor.

633.270 Disputes and appeals under DOS contracts subject to the Contract Disputes Act of 1978.

633.270-1 Scope of section.

(TL:GS-40; 9-8-95)

This section concerns disputes relating to DOS contracts and the transfer of certain appellate and review functions from the Department of State to the Armed Services Board of Contract Appeals.

633.270-2 Designation.

(TL:GS-40; 9-8-95)

The Armed Services Board of Contract Appeals (ASBCA) is the authorized representative of the Secretary of State and the Procurement Executive for the purposes of hearing and resolving disputes relating to DOS contracts subject to the Contract Disputes Act of 1978. The ASBCA shall hear and determine appeals by contractors from contracting officers' final decisions on disputed issues relating to DOS contracts subject to the Contract Disputes Act of 1978.

633.270-3 DOS support.

(TL:GS-40; 9-8-95)

The Procurement Executive shall ensure the support of all DOS personnel in processing appeals before the ASBCA. The Procurement Executive is authorized to require such DOS officers and employees to cooperate for this purpose.

SUBCHAPTER F SPECIAL CATEGORIES OF CONTRACTING

PART 634 MAJOR SYSTEM ACQUISITION

Subpart 634.0

634.001 Definitions.

(TL:GS-40; 9-8-95)

“Major system”:

(a) The definition of “major system” in OMB Circular A-109, Major System Acquisitions (A-109), provides no exclusions; however, FAR 34.001 excludes from the definition of “major system” construction or other improvements to real property. Acquisition of capital project systems by the Office of Foreign Buildings, which would otherwise be subject to the requirements of A-109 are thus exempted from these requirements. Under separate authority, the DOS has other existing controls that provide the necessary review, approval, and monitoring procedures to manage capital project systems acquisitions by the Office of Foreign Buildings.

(b) Pursuant to A-109 and paragraph (b) of the definition of “major system” prescribed by FAR 34.001, any DOS system shall be considered a major system if total acquisition costs with private industry are expected to equal or exceed \$30,000,000.

(c) The acquisition executive is the Under Secretary for Management for the purposes of paragraph (c) of the definition of “major system” prescribed in FAR 34.001. The acquisition executive is authorized to designate as a major system acquisition any DOS system not expected to meet or exceed the \$30,000,000 threshold identified in paragraph (b) above; provided, that the determination shall be made in accordance with the requirements of A-109, FAR Part 34, and this Part 634.

(d) Classification as a major system acquisition is independent of the number of component DOS contracting activities involved in the process. A major system acquisition may occur entirely within the jurisdiction of a single contracting activity or it may involve more than one DOS contracting activity.

(e) Each major system acquisition shall be in response to a need of one of the DOS major missions, which are identified in volume 1 of the Foreign Affairs Manual System.

634.001-70 Supplemental definitions.

(TL:GS-40; 9-8-95)

Section five of A-109 defines several terms in addition to those defined in FAR 34.001.

“Major Acquisition Program Office (A/IM/MAPO)” is located within the Office of Information Management. It has managerial and operational responsibilities relative to all major information resource acquisitions.

634.002 Policy.

(TL:GS-40; 9-8-95)

The objective of A-109 is to assure effectiveness and efficiency in acquiring major systems. Section six of A-109 provides general policy guidelines in addition to those prescribed in FAR 34.002.

634.003 Responsibilities.

(TL:GS-40; 9-8-95)

(a) The Procurement Executive is the agency head's designee for the purposes of FAR 34.003(a). Written procedures for acquiring Federal Information Processing (FIP) resources by the Major Acquisitions Program Office are contained in the “Source Selection Procedures Guide”, issued by that Office.

(b) The Under Secretary for Management is the agency head for the purposes of FAR 34.003(c) and the acquisition executive for the purposes of A-109.

634.005 General requirements.

634.005-6 Full production.

(TL:GS-40; 9-8-95)

The Deputy Secretary is the agency head for the purposes of FAR 34.005-6.

PART 636 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 636.1 General.

636.101 Applicability.

636.101-70 Exception.

(TL:GS-40; 9-8-95)

Contracts for overseas construction, including capital improvements, alterations, and major repairs, may be excepted from the provisions of the FAR (48 CFR Ch. 1) under the authority of the Foreign Service Buildings Act, 1926, as amended, 22 U.S.C. 292 et seq., as further codified at section 474 of Title 40, Public Buildings, Property, and Works, of the U.S. Code.

Subpart 636.2 Special Aspects of Contracting for Construction

636.209 Construction contracts with architect-engineer firms.

(TL:GS-40; 9-8-95)

The Procurement Executive is the head of the agency for the purposes of FAR 36.209.

Subpart 636.6- Architect-Engineer Services

636.602 Selection of firms for architect-engineer contracts.

636.602-4 Selection authority.

(TL:GS-40; 9-8-95)

(a) The final selection decision shall be made as designated by the Deputy Assistant Secretary for Foreign Buildings Operations for acquisitions issued by that office; the Director, Moscow Embassy Buildings Control Office, for Moscow chancery building(s) only; and, the appropriate head of the contracting activity for all other actions.

636.602-5 Short selection processes for contracts not to exceed the simplified acquisition threshold.

(TL:GS-40; 9-8-95)

The short selection process described in FAR 36.602-5 is authorized for use for contracts not expected to exceed the simplified acquisition threshold.

PART 637 SERVICE CONTRACTING

Subpart 637.1 Service Contracts - General

637.103 Contracting officer responsibility.

(TL:GS-40; 9-8-95)

The Office of the Legal Adviser is the DOS legal counsel for the purposes of FAR 37.103(a)(2).

637.104-70 Personal services contracts.

(TL:GS-40; 9-8-95)

Pursuant to FAR 37.104(b), DOS statutory authorities for personal services contracts are --

(a) For the Department, Section 2(c) of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669);

(b) For the Bureau of Population, Refugees, and Migration, Section 5(a)(6) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2605);

(c) For the Bureau for International Narcotics and Law Enforcement Affairs, Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396);

(d) For the Foreign Service Institute, Section 704(a)(4) of the Foreign Service Act of 1980, as amended (22 U.S.C. 4024);

(e) For the Office of Foreign Missions, Section 208(d) of Title II - Authorities Relating to the Regulation of Foreign Missions, of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 4308);

(f) For the Office of Foreign Buildings and the Moscow Embassy Buildings Control Office, Section 5 of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 296);

(g) For the U.S. Mission to the United Nations, Section 7 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e); and

(h) For the Bureau of International Organization Affairs, the separate State Department appropriations acts.

637.104-70 Delegation of personal services contracting authority for U.S. citizens and foreign nationals at overseas posts.

(TL:GS-40; 9-8-95)

(a) By memorandum of September 8, 1993, the Procurement Executive delegated to the Executive Directors of the Regional Bureaus and the International Organization Affairs the authority for personal services contracts for specified functions/categories of personal services contracts. A copy of the memorandum is included in the Appendix.

(b) This authority may be redelegated by the Executive Directors to the Deputy Executive Directors, without power of redelegation.

(c) The delegation is subject to the following conditions:

(1) This delegation is limited to the statutory authority under 22 U.S.C. 2669(c)(2).

(2) This authority applies only to posts in the Bureau's geographic region, or in the case of International Organization Affairs, to missions to international organizations.

(2) This authority is for personal services contracts with U.S. citizens at the FP-09 equivalent level or below in Procedural Clerical, Substantive Clerical, and Technical Support as defined in the Work Evaluation Guidelines in 3 FAM 170 Appendix D. Requests for delegation of American personal services contract authority at higher work and class levels shall be referred by the Bureau to the Office of the Procurement Executive through the Office of Employee Relations.

(3) This authority is for personal services contracts with foreign nationals and third country nationals at the FSN-6 level or below, or as specified in Attachment B to the delegation memorandum. The authority is limited to the functions listed on Attachment B. The term "function" means the same as the term "series" under the FSN Position Classification System.

(4) Personal services contract authority is limited to Department of State personal services contractors including personal services contractors who provide overseas administrative support services to agencies serviced by State under the FAAS System. In rare circumstances, it may be possible to use the Department of State's authority for personal services contracts awarded on behalf of other agencies. Posts shall contact A/OPE prior to award of any personal services contract proposing to use the Department of State's authority.

637.106 Funding and term of service contracts.

(TL:GS-40; 9-8-95)

The Department's statutory authority for authorizing contracts for services funded by annual appropriations to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year, is 22 U.S.C. 2696(e). See DOSAR 632.703-3.

637.110 Solicitation provisions and contract clauses.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall insert the clause at 652.237-70, Compensatory Time Off, in personal services contracts awarded in support of International Narcotics Control programs overseas, if the contracting officer determines its use appropriate.

(b) The contracting officer shall insert the clause at 652.237-71, Identification/Building Pass, in all solicitations and contracts where contractor personnel require frequent and continuing access to Department of State facilities.

(c) The contracting officer shall insert a clause substantially the same as the clause at 652.237-72, Observance of Legal Holidays and Administrative Leave, in all solicitations and contracts where contractor personnel will be working on-site in any Department of State facility.

637.170 Government use of commercial recruiting firms and nonprofit employment services.

(TL:GS-40; 9-8-95)

(a) *Applicability.* The policy stated in this subsection applies to Department of State use of commercial recruiting firms and nonprofit employment services to locate candidates for Federal civil service positions in accordance with 5 CFR Part 300, Subpart D, Use of Commercial Recruiting Firms and Nonprofit Employment Services.

(b) *Policy.* It is the Department's policy to contract with commercial recruiting firms and/or nonprofit employment services in recruiting for DOS civil service vacancies when such recruiting services are not otherwise available. This policy covers civil service positions in the competitive service; positions in the excepted service under Schedules A, B, and C, or filled by noncareer executive assignment; and, positions in the Senior Executive Service. Contracting with commercial recruiting firms and/or nonprofit employment services shall conform to 5 CFR Part 300, Subpart D; the Federal Personnel Manual; the FAR; and the DOSAR. All such services shall be

acquired through the Office of Acquisition, upon certification of need by the Bureau of Personnel.

(c) *Responsibility.* (1) The Executive Office for the Bureau of Personnel is responsible for coordinating clearance and/or approval of a certification of need for acquisition of recruitment services through the Bureau of Personnel, ensuring compliance with 5 CFR 300.403 and 300.406, and providing the contracting officer with the approved certification. The Executive Office for the Bureau of Personnel is authorized to generate a blanket waiver of certification of need when appropriate.

(2) The contracting officer is responsible for ensuring that the acquisition complies with applicable acquisition regulations, particularly the requirement to use competitive procedures, 5 CFR 300.405, and the exclusions described in paragraph (d) of this subsection. The contracting officer's representative (COR) may be delegated responsibility for compliance with 5 CFR 300.407.

(d) *Exclusions.* (1) As prescribed in 5 CFR 300.401, the Department is prohibited from using a nonprofit employment service sponsored by a partisan political organization.

(2) As prescribed in 5 CFR 300.404, the Department is prohibited from using commercial recruiting firms and nonprofit employment services that charge fees to individuals referred to Federal positions. This prohibition does not apply to registration fees paid by individuals to nonprofit organizations when the registration fee is imposed regardless of whether the registrant is referred for employment or replaced.

PART 639 ACQUISITION OF INFORMATION RESOURCES

Subpart 639.0

639.000

639.001-70 Policy.

(*TL:GS-40; 9-8-95*)

(a) The Assistant Secretary of State for Administration is the Department's Designated Senior Official as defined in the Federal Information Resources Management Regulation (FIRMR) 201-39.201.

(b) Contracting officers shall follow the FAR when procuring Federal information processing (FIP) resources (e.g., computer hardware, computer software, computer maintenance, telecommunications), except in those areas where the Federal Information Resources Management Regulation (FIRMR) prescribes special policies, procedures, provisions, or clauses. FIRMR Part

201-39, Acquisition of Federal Information Processing (FIP) Resources by Contracting, is published as Appendix A of the FAR. Contracting officers shall also follow existing procedures contained in 5 FAM 920 and 930.

(c) FIP resources may be obtained from other sources in addition to GSA and the open market. Contracting activities should also ascertain the availability of supplies or services from A/OPR/ACQ (Wang and other non-Wang items); the Navy's Desktop IV contract; and DoD's Information Technology Acquisition Bulletin Board System. A/IM/MAPO should be contacted for information with respect to the latter two options.

(d) *Purchase of telecommunications circuitry services.* It is the Department's policy to purchase telecommunications circuitry services end-to-end, whether international (U.S. to post) or OCONUS (post to post).

SUBCHAPTER G CONTRACT MANAGEMENT

PART 642 CONTRACT ADMINISTRATION

Subpart 642.2 Assignment of Contract Administration

642.270 Contracting Officer's Representative (COR).

(TL:GS-40; 9-8-95)

(a) *Scope.* Contracting officers may designate technically qualified personnel as their authorized representatives to assist in the administration of contracts. This section establishes Department policy and procedures on the training and appointment of CORs. This section is mandatory for domestic contracting activities and recommended for overseas contracting activities.

(b) *Policy.* It is Department policy that only Department of State employees who have completed adequate training and have the necessary experience and judgment shall be appointed as CORs. This policy shall be reinforced by contracting officers and administered jointly by A/OPE and FSI. Required training shall be funded by the COR's office.

(c) *Required training.* (1) Formal training. Department employees shall complete a FSI-approved COR training course prior to appointment as a COR. Approved courses include:

COR Training for Construction Projects;

COR Training for Equipment Procurement;

COR Training for Non-Personal Services Contracts; and,

How to be a COR (correspondence course).

If FSI training courses are unavailable, training may be obtained from other Government or commercial sources; however, the course shall be 40 hours in length and cover at least the basic duties, as applicable to the type(s) of contracts for which the employee will serve as COR. Every five (5) years thereafter, the COR shall complete an additional FSI-approved course or other 40-hour course in order to maintain a current base of knowledge.

(2) *Refresher training.* Each COR shall complete an 8-hour refresher course in the intervening period; this course shall be offered by FSI.

(3) *Effect of training.* Completion of required training and possession of relevant qualifications and/or experience do not guarantee that a particular employee will be appointed as a COR. The appointment of a COR is a matter solely within the discretion of the contracting officer.

(d) *Training sources.* FSI is the preferred source of COR training, and inquiries regarding COR training shall be directed to FSI; however, funding may not be available for a sufficient number of courses, so CORs may have to obtain training from a commercial source or other Federal agencies. A list of such sources is included in the Appendix. This listing is not all-inclusive.

(e) *Grandfather procedure.* Department employees who are already serving as CORs need not complete the required training if, in the judgement of the contracting officer, their performance as a COR is acceptable. If the contracting officer considers a current COR's performance to be in need of improvement, the COR may be required to complete the required training within one year as a condition of continuing to serve as a COR. Department employees may substitute one or more years of experience for the initial training requirement if approved by the contracting officer based on the adequacy of the experience.

(f) *Appointment process.* The COR appointment process shall be as follows, unless an alternative process is developed by the contracting activity and approved by the Procurement Executive:

(1) *Nomination.* The COR shall be named in the procurement request submitted to initiate the procurement action and shall be accompanied by a nomination using the format as included in the Appendix.

(2) *Appointment memorandum.* CORs shall be appointed using Form DS-1924, *Certificate of Appointment* (illustrated in Part 653). The COR shall display this certificate in his/her office or have it available to show visitors. In addition, the contracting officer shall prepare an accompanying delegation memorandum with the certificate to outline the scope of the COR's authority, including duties, responsibilities, and prohibitions. Sample appointment memorandums for various types of contracts (supplies/services, architect-engineering services, construction, and personal services contracts) are provided in the Appendix. These samples may be tailored to fit individual contracts, as long as the basic principles of authority are not changed. If the COR is replaced during the term of the contract, the contracting officer shall prepare an appointment memorandum for the replacement COR and ensure that the contractor receives a copy.

(3) *Appointment ceremony.* For the initial appointment of a COR, the contracting officer should convene a post-award orientation conference attended by the COR, the contractor, and the contracting officer, as prescribed in FAR Subpart 42.5. At the conference, the contracting officer should provide the COR with the signed Form DS-1924 and delegation memorandum. This memorandum should be signed as acknowledged by the COR and countersigned by the contractor to commemorate the mutual understanding of the COR's authority. A copy of both the appointment memorandum and the appointment certificate shall be maintained in the official contract file.

(4) *Replacement or revocation.* If a COR must be replaced, the requirements office shall submit a request for approval of COR replacement using the format illustrated in the Appendix. Any COR appointment may be revoked by the contracting officer for failure to adhere to the conditions of the COR's appointment. Such revocation shall be in writing, documenting the basis for the action being taken, with a copy sent to one level above the COR and a copy kept in the official contract file.

(g) *Alternative procedures.* Contracting activities requiring alternative procedures (e.g., allowing personal services contractors to serve as CORs) to implement an effective COR program shall submit a description of their proposed alternative to A/OPE for review and approval.

642.271 DOSAR contract clause.

(TL:GS-40; 9-8-95)

The contracting officer shall insert a clause substantially the same as the clause at 652.242-70, Contracting Officer's Representative, in solicitations and contracts when appointment of a contracting officer's representative is anticipated.

Subpart 642.6- Corporate Administrative Contracting Officer

642.602 Assignment and location.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 42.602(a).

Subpart 642.14 Traffic and Transportation Management

642.1406-2 Contract clause.

642.1406-70 DOSAR contract clauses.

(TL:GS-40; 9-8-95)

(a) The contracting officer shall insert the clause at 652.242-71, Notice of Shipment, in solicitations and contracts entered into and performed outside the United States, when overseas shipment of supplies is required.

(b) The contracting officer shall insert the clause at 652.242-72, Shipping Instructions, in solicitations and contracts with a source in the United States and overseas shipment of supplies is required.

PART 643 CONTRACT MODIFICATIONS

Subpart 643.1 - General

643.102 Policy.

643.102-70 Contract compliance and review.

(TL:GS-40; 9-8-95)

(a) When applicable, the contracting officer shall ensure the proposed contract modification complies with the competition requirements of FAR Part 6 and DOSAR Part 606.

(b) Subpart 604.70 prescribes the review requirements for modifying contracts for supplies and services, including construction. The contracting officer shall submit such contract modifications to A/OPE when:

(i) the modification itself exceeds the thresholds established in 604.7002(a);

(ii) the modification will cause the contract to exceed the thresholds established in 604.7002(a); or,

(iii) any proposed change under the modification results in an increase or decrease exceeding the thresholds in 604.7002(a) in any of the individual cost elements of the existing contract.

PART 645 GOVERNMENT PROPERTY

Subpart 645.3 Providing Government Property to Contractors

645.302 Providing facilities.

645.302-1 Policy.

(TL:GS-40; 9-8-95)

The authority to make the determination prescribed in FAR 45.302-1(a)(4) is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 645.6 Reporting, Redistribution, and Disposal of Contractor Inventory

645.608 Screening of contractor inventory.

645.608-6 Waiver of screening requirements.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head's designee for the purposes of FAR 45.608-6.

645.610 Sale of surplus contractor inventory.

645.610-2 Exemptions from sale by GSA.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 45.610-2(a).

PART 646 QUALITY ASSURANCE

Subpart 646.7 Warranties

646.710 Contract clauses.

646.710-70 DOSAR contract clause.

(TL:GS-40; 9-8-95)

The contracting officer shall insert the clause at 652.246-70, Commercial Warranty, in solicitations and contracts for commercial supplies or services awarded and performed outside the United States.

PART 647 TRANSPORTATION

Subpart 647.0

647.000 Scope of part.

(TL:GS-40; 9-8-95)

The FAR and DOSAR do not apply to the acquisition of transportation services via Government bill of lading (GBL) or other similar forms.

PART 648 VALUE ENGINEERING

Subpart 648.1 Policies and Procedures

648.102 Policies.

(TL:GS-40; 9-8-95)

(a) The authority to grant exemptions prescribed in FAR 48.102(a), or to extend future contract savings or sharing pursuant to FAR 48.102(g), is delegated, without power of redelegation, to the head of the contracting activity.

Subpart 648.2 Contract Clauses

648.201 Clauses for supply or service contracts.

(TL:GS-40; 9-8-95)

The authority to determine exemptions prescribed in FAR 48.201(a)(6) is delegated, without power of redelegation, to the head of the contracting activity.

PART 649 TERMINATION OF CONTRACTS

Subpart 649.1 General Principles

649.106 Fraud or other criminal conduct.

(TL:GS-40; 9-8-95)

If the Termination Contracting Officer (TCO) suspects fraud or other criminal conduct related to the settlement of a terminated contract, the TCO shall discontinue negotiations and report the facts to the Office of the Inspector General.

649.111 Review of proposed settlements.

(TL:GS-40; 9-8-95)

All proposed termination settlements shall be reviewed and approved by the Office of the Legal Adviser for legal sufficiency. In addition,

(a) All proposed termination settlements from domestic contracting activities shall be approved by the head of the contracting activity; and,

(b) All proposed termination settlements from overseas contracting activities shall be approved by the Procurement Executive.

PART 651 USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 651.70 Contractor Use of Travel Advances, Official Travel Orders, and Government Travel Requisitions

651.701 Policy.

(TL:GS-40; 9-8-95)

(a) It is the Department's policy that contractors shall not:

(1) Receive travel advances from the Department for contract-related travel;

(2) Travel under official travel orders; or,

(3) Receive Government Travel Requisitions (GTRs) for transportation.

(b) All contract-related travel shall be performed on the contractor's account with reimbursement provided after submission of a proper voucher.

(c) This policy does not apply to personal services contractors; provided, that such contractors are paid through the Department's payroll system and they are subject to the standard payroll deductions of Federal Withholding Tax and FICA. It also does not apply to contracts awarded by the Office of Language Services (A/OPR/LS).

SUBCHAPTER H CLAUSES AND FORMS

PART 652 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 652.0

652.000 Scope of part.

(TL:GS-40; 9-8-95)

This part sets forth solicitation provisions and contract clauses, in addition to those prescribed in FAR Part 52, for use in DOS acquisitions.

Subpart 652.1 Instructions for Using Provisions and Clauses

652.100 Scope of subpart.

652.100-70 Policy.

(TL:GS-40; 9-8-95)

(a) The solicitation provisions and contract clauses in FAR Subpart 52.2 or this Subpart 652.2 shall be used as prescribed therein, except when the use of any provision or clause is prohibited by or inconsistent with local laws, or the supplies or services could not be obtained if the provision or clause were to be included.

(b) The contracting officer shall justify the exclusion of any provisions or clauses in accordance with FAR Subpart 1.4 and 601.470.

652.102 Incorporating provisions and clauses.

652.102-1 Incorporation by reference.

(TL:GS-40; 9-8-95)

The Procurement Executive is the agency head for the purposes of FAR 52.102-1(a)(2)(ii). DOSAR clauses may be incorporated by reference.

Subpart 652.2 Texts of Provisions and Clauses

652.000 Scope of subpart.

(TL:GS-40; 9-8-95)

This subpart sets forth the text of all DOSAR provisions and clauses, and for each provision and clause provides a cross-reference to the location in the DOSAR that prescribes its use.

652.203-70 Prohibition Against the Use of Federal Employees.

(TL:GS-40; 9-8-95)

As prescribed in 603.670, insert the following clause:

Prohibition Against the Use of Federal Employees (Dec 1994)

In accordance with Federal Acquisition Regulation 3.601, contracts are not to be awarded to Federal employees or a business concern or other organization owned or substantially owned or controlled by one or more Federal employees. For the purposes of this contract, this prohibition against the use of Federal employees includes any work performed by the contractor or any of its employees, subcontractors, or consultants.

(End of clause)

652.203-71 Certification Regarding Federal Employment.

(TL:GS-40; 9-8-95)

As prescribed in 603.670, insert the following provision:

Certification Regarding Federal Employment (Dec 1994)

By submitting an offer, the offeror hereby certifies that it is not owned or substantially owned or controlled by one or more Federal employees.

(End of provision)

652.204-70 Security Requirements.

(TL:GS-40; 9-8-95)

As prescribed in 604.404-70, insert the following clause in solicitations and contracts performed outside the United States to the extent the contract involves access to classified information ("Confidential," "Secret," or "Top Secret") or administratively controlled information ("Limited Official Use"). Contractors or contract employees that are not U.S. citizens shall not have access to classified or administratively controlled information.

Security Requirements (Jul 1988)

(a) This clause applies to the extent that this contract involves information the Government has determined to be classified ("Confidential," "Secret," or "Top Secret," hereinafter referred to as "Classified") or administratively controlled ("Limited Official Use," hereinafter referred to as "administratively controlled").

(b) The Contractor (1) shall be responsible for safeguarding all classified or administratively controlled information in accordance with paragraph (d) below and shall not supply, disclose, or otherwise permit any unauthorized person access to classified or administratively controlled information; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information, except with the prior written authorization of the Contracting Officer, Post Security Officer, or Regional Security Officer; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any project any matter which will disclose classified or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The Contractor shall not permit non-U.S. citizen access to classified or administratively controlled information. The Contractor shall not permit any individual access to classified information without the prior written authorization of the Contracting Officer, Post Security Officer, or Regional Security Officer.

(d) The Contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storage, and destroying official materials in accordance with the Uniform Regulations (Foreign Affairs Manual, Volume 5, Chapter 900, "Policy and Procedural Security"). The Contracting Officer, Post Security Officer, or Regional Security Officer shall provide a copy of this document to the Contractor. The Contracting Officer shall provide any supplements to these regulations to the Contractor in writing.

(e) The Contractor agrees to submit immediately to the Contracting Officer, Post Security Officer, a complete detailed report, approximately classified, of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(f) The Government agrees that when necessary it shall indicate by security classification or administratively controlled designation the degree of importance to the national security of information to be furnished by the Contractor to the Government or by the Government to the Contractor. The Government shall give written notice to the Contractor of such security classification or administratively controlled designation and of any subsequent changes thereof. The Contractor shall rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(g) The Contractor agrees to certify after completion of this contract that it has surrendered or disposed of all classified or administratively controlled information in its custody in accordance with applicable security regulations or instructions.

(End of clause)

652.204-71 Security Requirements - Personnel

(TL:GS-40; 9-8-95)

As prescribed in 604.404-70, insert the following clause in solicitations and contracts performed outside the United States.

Security Requirements - Personnel (Jul 1988)

The Contractor agrees, if directed by the Contracting Officer, to furnish the Government with the name, date and place of birth, current address, and such other biographical information as is readily available to the Contractor, concerning any individual before permitting said individual to perform under this contract. The Contractor further agrees to permit only those individuals approved by the Government to be used in the performance of this contract.

(End of clause)

652.206-70 Competition Advocacy/Ombudsman.

(TL:GS-40; 9-8-95)

As prescribed in 606.570, insert the following provision:

Competition Advocacy/Ombudsman (Dec 1994)

The Department of State's Competition Advocate is responsible for assisting industry in removing restrictive requirements from Department of State solicitations and removing barriers to full and open competition. If such a solicitation is considered competitively restrictive or does not appear properly conducive to competition and contracting practices, potential offerors are encouraged to first contact the contracting office for the respective solicitation

identified elsewhere in this solicitation. If concerns are not adequately addressed, contact the Department of State Competition Advocate on (703) 516-1680, or write to: U.S. Department of State, Competition Advocate, Office of the Procurement Executive, A/OPE/CA, Suite 603, SA-6, Washington, DC 20522-0602.

(End of provision)

652.214-70 Notices.

(TL:GS-40; 9-8-95)

As prescribed in 614.201-7-70(a), insert the following clause in solicitations and contracts entered into and performed outside the United States.

Notices (Dec 1994)

Any notice or request relating to this contract given by either party to the other shall be in writing. Said notice or request shall be mailed or delivered by hand to the other party at the address provided in the schedule of the contract. All modifications to the contract must be made in writing by the Contracting Officer.

(End of clause)

652.214-71 Authorization to Perform.

(TL:GS-40; 9-8-95)

As prescribed in 614.201-7-70(c), insert the following provision:

Authorization to Perform (Dec 1994)

The Contractor warrants that (a) it has obtained authorization to operate and do business in the country or countries in which this contract will be performed; (b) it has obtained all necessary licenses and permits required to perform this contract; and (c) it shall comply fully with all laws, decrees, labor standards and regulations of said country or countries during the performance of this contract.

(End of provision)

652.216-70 Ordering - Indefinite-Delivery Contract.

(TL:GS-40; 9-8-95)

As prescribed in 616.505-70, insert the following clause in solicitations and contracts when a definite-quantity, a requirements contract, or an indefinite-quantity contract is contemplated.

Ordering - Indefinite-Delivery Contract (Dec 1994)

The Government shall use one of the following forms to issue orders under this contract:

(a) The Optional Form 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule -Continuation; or,

(b) The Optional Form 206, Purchase Order, Receiving Report and Voucher, and Optional Form 206A, Continuation Sheet.

(End of clause)

652.216-71 Price Adjustment.

(TL:GS-40; 9-8-95)

As prescribed in 616.203-4, insert a clause substantially the same as follows:

Price Adjustment (Dec 1994)

(a) The contract cost may be adjusted based on increases or decreases in actual costs of direct service labor which result directly from laws enacted and effective during the term of this contract by the *[insert name of country]* Government.

(b) For the contracting officer to consider any request for adjustment, the contractor shall demonstrate in writing:

(1) That the change in the law occurred subsequent to the award date of the contract; and,

(2) That the change in the law could not have been reasonably anticipated prior to contract award; and,

(3) How the change in the law directly affects the direct cost of direct service labor under the contract.

(c) The contractor shall present documentation that clearly supports any request for adjustment, including the calculation of the amount of adjustment requested. This documentation must identify and provide the appropriate portions of the text of the particular law from which the request is derived.

(d) Any request for adjustment shall be certified by signature by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(e) No adjustment shall be made to the contract price that relates to any overhead, fixed costs, profit or fee for the contractor. Only the amount charged to direct service labor cost shall be considered by the Government as basis for contract price adjustments.

(f) No request by the contractor for an adjustment under this clause shall be allowed if asserted after final payment under this contract has been made.

(g) This clause shall only apply to laws enacted by the [insert name of country] Government meeting the criteria set forth above in paragraph (a). No adjustments shall be made due to currency devaluations or fluctuations in exchange rates.

End of clause)

652.219-70 Department of State Subcontracting Goals.

(TL:GS-40; 9-8-95)

As prescribed in 619.708-70, insert a provision substantially the same as follows:

Department of State Subcontracting Goals (Dec 1994)

(a) The offeror shall provide a Small, Small Disadvantaged and Woman-Owned Enterprise Subcontracting Plan that details its approach to selecting and using Small, Small Disadvantaged, and Woman-Owned Business Enterprises.

(b) For the fiscal year [insert appropriate fiscal year], the Department's subcontracting goals are as follows:

- (1) Goal for subcontracting to SB: _____
- (2) Goal for subcontracting to SDB: _____
- (3) Goal for subcontracting to SWB: _____
- (4) Omnibus goals (if applicable):
 - (i) 10% to minority business
 - (ii) 10% to small business

(End of provision)

652.223-70 Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(a), insert the following provision:

Estimates of the Total Percentage of Recovered Materials to be Utilized in the Performance of the Contract (Dec 1994)

(a) As required under Section 6002 of the Resource Conservation and Recovery Act, an officer or employee of the offeror shall estimate the total percentage of recovered material to be utilized in the performance of the contract.

(b) I, (insert name of certifier) am an officer employee responsible for the preparation of this offer and hereby estimate the total percentage of recovered material to be utilized in the performance of the contract as follows:

PRODUCT	ESTIMATE OF TOTAL PERCENT OF RECOVERED MATERIAL TO BE UTILIZED
_____	_____
_____	_____
_____	_____

(End of provision)

652.223-71 Certification of Minimum Content Actually Utilized in the Performance of the Contract.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(b), insert the following clause:

Certification of Minimum Content Actually Utilized in the Performance of the Contract (Dec 1994)

(a) As required under Section 6002 of the Resource Conservation and Recovery Act, an officer or employee of the contractor shall execute the following certification:

I, (insert name of certifier), am an officer or employee responsible for the performance of this contract and hereby certify the following minimum recovered material content was actually utilized in the performance of this contract:

PRODUCT	PERCENT OF MINIMUM RECOVERED MATERIAL ACTUALLY UTILIZED
_____	_____
_____	_____
_____	_____

(b) The contractor shall submit this certification by January 31 in each year during the period of performance of this contract. The period of the certification shall cover the preceding calendar year.

Signature of the officer or employee

Typed name of officer or employee

Title

Name of company, firm, or organization

Date

(End of clause)

652.223-72 Use of Double-Sided Copying in the Submissions of Bids or Proposals.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(c), insert the following provision:

Use of Double-Sided Copying in the Submission of Bids or Proposals (Dec 1994)

(a) For the purposes of this provision, “double-sided copying” means copying two one-sided originals on to the front and back side of one sheet of paper.

(b) Unless otherwise stated in the solicitation, offerors shall use double-sided copying to reproduce all bids or proposals in response to this solicitation.

(End of provision)

652.223-73 Use of Double-Sided Copying in the Submission of Reports.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(d), insert the following clause:

Use of Double-Sided Copying in the Submission of Reports (Dec 1994)

(a) For the purposes of this clause, “double-sided copying” means copying two one-sided originals on to the front and back side of one sheet of paper.

(b) Unless otherwise stated in this contract or otherwise directed by the contracting officer, the contractor shall use double-sided copying to reproduce any progress report, draft report, or final report produced under this contract.

(End of clause)

652.223-74 Use of Fly Ash as a Partial Replacement for Cement and Concrete.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(e), insert the following clause:

**Use of Fly Ash as a Partial Replacement for Cement and Concrete
(Dec 1994)**

The Architect/Engineer shall specify the performance requirements of the cement and concrete products required under the contract using standard specifications when available. Consistent with such performance specifications, the Architect/Engineer shall specify the use of fly ash, a finely divided residue resulting from the combustion of coal, as a partial replacement for cement and concrete to the maximum extent practicable in accordance with ANSI/ASTM Standards and all applicable codes.

(End of clause)

652.223-75 Use of Recovered Materials in Building Insulation Products.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(f), insert the following clause:

Use of Recovered Materials in Building Insulation Products (Dec 1994)

(a) This clause applies to building insulation products used in the construction of ceilings, floors, foundations, and walls, and includes blanket, board, spray-in place and loose-fill insulations.

(b) The Department's minimum content standard for recovered material in building insulation products is set forth below.

MATERIAL TYPE	PERCENT BY WEIGHT
Cellulose loose-fill and spray on	75% post-consumer recovered paper
Perlite composition board	23% post-consumer recovered paper
Plastic Rigid Foams	
- polyisocyanurate/polyurethane:	
- rigid foam	9% recovered material
- foam-in-place	5% recovered material
- glass fiber reinforced	6% recovered material

Phenolic rigid
foam

5% recovered material

Rock Wool

75% recovered material

NOTE: The minimum content standards are based on the weight of the material (not volume) in the insulating core only.

(c) The Architect/Engineer shall include as a design consideration the Department's preference for the use of building insulation produced with recovered materials. The Architect/Engineer shall specify the type of building insulation products to be supplied, and shall justify in writing the basis of the selected product type if it is not listed above, or if any product listed above has a higher minimum content standard than the selected product.

(End of clause)

652.223-76 Use of Lubricating Oils Containing Re-Refined Oils.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(g), insert the following clause:

Use of Lubricating Oils Containing Re-Refined Oils (Dec 1994)

(a) If the contractor is required to supply lubricating oils, hydraulic fluids, or gear oils under this contract, the contractor shall supply products conforming to the listed military specifications as set forth below unless the contracting officer determines that the listed products will not satisfy the Department's needs.

EPA LUBRICATING OILS CONTAINING RE-REFINED OIL

(1) ENGINE LUBRICATING OILS

(i) MIL-L-46152 (or current version) - Lubricating Oil Internal Combustion Engine, Administrative Service

(ii) API Engine Service Category SF-1980 Gasoline Engine Warranty Maintenance Service

(iii) API Engine Service Category CC-Diesel Engine Service

(iv) MIL-L-2104D (or current version) - Lubricating Oil Internal Combustion Engine, Tactical Service

(v) API Engine Service Category CD-Diesel Engine Service

(vi) MIL-L-21260D (or current version) - Lubricating Oil Internal Combustion Engine, Preservative and Break-In
(vii) MIL-L-46167 (or current version) - Lubricating Oil, Internal Combustion Engine, Arctic

(2) HYDRAULIC FLUIDS

(i) MIL-H-5606 (or current version) - Hydraulic Fluid, Petroleum Base: Aircraft, Missile, and Ordnance

(ii) MIL-H-6083 (or current version) - Hydraulic Fluid, Petroleum Base: Preservation and Operation

(3) GEAR OILS

(i) MIL-L-2105d (or current version) - Lubricating Oil, Gear, Multipurpose

(b) Copies of the above specifications may be obtained from: Standardization Document Order Desk, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094.

(c) Any lubricating oils, hydraulic fluids, or gear oils delivered under this contract that conform to the above listed military specifications shall contain a minimum of 25% re-refined oils.

(End of clause)

652.223-77 Use of Retread Tires.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(h), insert the following clause:

Use of Retread Tires (Dec 1994)

(a) If the contractor is required to maintain or replace Government tires under this contract, the contractor shall to the maximum extent practicable obtain retreading services for existing tires, if the carcass is retreadable, from firms identified in the U.S. General Services Administration's Federal Supply Schedule 26II, Pneumatic Tires.

(b) If such retreading services are not practicable, replacement retread tires shall be procured in accordance with GSA specification ZZ-T-381 for replacement tires.

(End of clause)

652.223-78 Use of Recovered Materials in Paper and Paper Products.

(TL:GS-40; 9-8-95)

As prescribed in 623.480(i), insert the following clause:

Use of Recovered Materials in Paper and Paper Products (Dec 1994)

(a) If the contractor is required under this contract to deliver any of the paper and paper products listed below, all such items delivered shall meet the minimum content standards for recovered materials, postconsumer recovered materials, or wastepaper set forth in paragraph (b).

(1) Recovered materials are defined as waste material and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(2) Postconsumer recovered materials are defined as waste materials recovered from retail stores, office buildings, homes and so forth after they passed through their end usage as a consumer item.

(3) Waste paper is defined as all items from the first two categories above in addition to forest residues, and manufacturing and other wastes.

(b) Unless otherwise stated in this contract or otherwise directed by the contracting officer, the contractor shall use "High Grade Bleached Printing and Writing Papers" as defined in this clause to produce all progress reports, final reports, and any other products required to be delivered to the Government under this contract.

MINIMUM CONTENT STANDARDS FOR SELECTED PAPER AND PAPER PRODUCTS

NEWSPRINT-40% minimum postconsumer recovered materials

HIGH GRADE BLEACHED PRINTING AND WRITING PAPERS

Offset printing-50% minimum waste paper

Mimeo and duplicator paper-50% minimum waste paper

Writing (stationery)-50% minimum waste paper

Office paper (e.g., note pads)-50% minimum waste paper

Paper for high speed copiers-50% minimum waste paper

Envelopes-50% minimum waste paper

Form bond including computer paper and carbonless-50% minimum waste paper

Book papers-50% minimum waste paper

Bond papers-50% minimum waste paper

Ledger-50% minimum waste paper

Cover stock-50% minimum waste paper

Cotton fiber papers-25% minimum recovered materials and 50% minimum waste paper

TISSUE PRODUCTS

Toilet tissue-20% minimum postconsumer recovered materials

Paper towels-40% minimum postconsumer recovered materials

Paper napkins-30% minimum postconsumer recovered materials

Facial tissue-5% minimum postconsumer recovered materials

Doilies-40% minimum postconsumer recovered materials

Industrial wipes-0% minimum postconsumer recovered materials

UNBLEACHED PACKAGING

Corrugated boxes-35% minimum postconsumer recovered materials

Fiber boxes-35% minimum postconsumer recovered materials

Brown papers (e.g., bags)-5% minimum postconsumer recovered materials

RECYCLED PAPERBOARD

Recycled paperboard products-80% minimum postconsumer recovered materials

Pad backing-90% minimum postconsumer recovered materials

(End of clause)

652.228-70 Indemnification.

(TL:GS-40; 9-8-95)

As prescribed in 628.7001(b), insert the following clause in solicitations and contracts when the contractor's assumption of risk is in the best interest of the Government.

Indemnification (Jul 1988)

The Contractor expressly agrees to indemnify and to save the Government, its officers, agents, servants, and employees harmless from and against any claim, loss, damages, injury, and liability, however caused, resulting from or arising out of the Contractor's fault or negligence in connection with the performance of work under this contract. Further, any negligence or alleged negligence of the Government, its officers, agents, servants, or employees, shall not bar a claim for indemnification unless the act or omission of the Government, its officers, agents, servants, or employees is the sole competent, and producing cause of such claim, loss, damages, injury, or liability.

(End of clause)

652.228-71 Worker's Compensation Insurance (Defense Base Act) -Services.

(TL:GS-40; 9-8-95)

As prescribed in 628.305(b)(1), insert the following clause:

Worker's Compensation Insurance (Defense Base Act) - Services (Dec 1994)

(a) This clause supplements FAR 52.228-3.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award.

(c) Since the Department of State has secured a waiver of DBA coverage for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(d) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which the DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(e) The cost of DBA insurance is paid on a annual basis. If the period of performance of this contract extends beyond one year, the Department shall reimburse the contractor for any additional insurance cost on a reimbursable basis through a contract modification.

(f) Should the rates for DBA insurance coverage increase during the performance of this contract, the Department shall reimburse the contractor for the increased cost through a contract modification. In the event the DBA insurance rates decrease during contract performance, the contractor shall reduce the reimbursable cost proportionately.

(End of clause)

652.228-72 Worker's Compensation Insurance (Defense Base Act) - Construction.

(TL:GS-40; 9-8-95)

As prescribed in 628.305(b)(2), insert the following clause:

Worker's Compensation Insurance (Defense Base Act) - Construction (Dec 1994)

(a) This clause supplements FAR 52.228-4.

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award. The current rate under the Department of State contract is *[contracting officer insert current rate]* of compensation for construction.

(c) Since the Department of State has secured a waiver of DBA coverage for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(d) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which the DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.

(e) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, the Department shall modify this contract accordingly.

(f) The contractor shall demonstrate to the satisfaction of the contracting officer that the equitable adjustment as a result of the insurance increase or decrease does not include any reserve for such insurance. Adjustment shall not include any overhead, profit, general and administrative expense, etc.

(End of clause)

652.228-73 Waiver of the Defense Base Act.

(TL:GS-40; 9-8-95)

As prescribed in 628.305(b)(3), insert the following clause:

Waiver of the Defense Base Act (Dec 1994)

(a) Upon recommendation of the Secretary of State, the Secretary of Labor may waive the applicability of the Defense Base Act with respect to any contract, subcontract, or subordinate contract; work location; or classification of employees.

(b) Either the contractor or the Department of State may request a waiver from coverage. Such a waiver may apply to any employees who are not U.S. citizens, not residents of, or are not hired in the United States. Waivers requested by the contractor shall be submitted to the contracting officer for approval and further submission to the Department of Labor. Application for a waiver shall be submitted on Department of Labor Form BEC-565. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other worker's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing worker's compensation coverage of the country where work will be performed or of the employee's native country, whichever offers greater benefits. Information as to whether a DBA waiver has been obtained by the Department for a particular country may be obtained from the contracting officer.

(End of clause)

652.228-74 Defense Base Act Insurance Rates - Limitation - Services.

(TL:GS-40; 9-8-95)

As prescribed in 628.306(a)(1), insert the following provision:

Defense Base Act Insurance Rates - Limitation - Services (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. The rates for this insurance areas follows:

Services @ *[contracting officer insert current rate]* of compensation

(b) Bidders/Offerors should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA insurance in their bid/proposal using the foregoing rate, and insert the totals in the spaces provided. The DBA insurance cost shall be included in the total fixed price. The DBA insurance costs shall be reimbursed directly to the contractor.

- (1) Compensation of Covered Employees: _____
- (2) Defense Base Act Insurance Costs: _____
- (3) Total Cost: _____

(c) Bidders/Offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(End of provision)

652.228-75 Defense Base Act Insurance Rates - Limitation - Construction.

(TL:GS-40; 9-8-95)

As prescribed in 628.306(a)(2), insert the following provision:

Defense Base Act Insurance Rates - Limitation - Construction (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier to provide DBA insurance to Department of State contractors at a contracted rate. The rates for this insurance areas follows:

Construction @ *[contracting officer insert current rate]* of compensation

(b) Bidders/Offerors should compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA insurance in their bid/proposal using the foregoing rate, and insert the totals in the spaces provided for the base year and each year thereafter, if applicable. The DBA insurance cost shall be included in the total fixed price. The DBA insurance costs shall be reimbursed directly to the contractor.

- (1) Compensation of Covered Employees: _____
- (2) Defense Base Act Insurance Costs: _____
- (3) Total Cost: _____

(End of provision)

652.228-76 Defense Base Act Insurance Rates - Limitation - Cost-Reimbursement.

(TL:GS-40; 9-8-95)

As prescribed in 628.307, insert the following provision:

Defense Base Act Insurance Rates - Limitation - Cost-Reimbursement (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier for Defense Base Act (DBA) insurance which applies to all contracts entered into by the Department which requires DBA insurance coverage. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for such insurance:

(1) Services - *[contracting officer insert current rate]* of compensation (direct salary plus differential but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); and

(2) Construction - *[contracting officer insert current rate]* of compensation.

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Should an offeror compute or include higher DBA insurance rates, the rates shall be disallowed.

(d) Offerors shall include in their proposals a statement as to whether or not local nationals or third country nationals are proposed on this contract.

(End of provision)

652.228-77 Defense Base Act Insurance Rates - Limitation - Labor-Hour and Time-and-Materials.

(TL:GS-40; 9-8-95)

As prescribed in 628.307-70, insert the following provision:

Defense Base Act Insurance Rates - Limitation - Labor-Hour and Time-and-Materials (Dec 1994)

(a) The Department of State has entered into a contract with an insurance carrier for Defense Base Act (DBA) insurance which applies to all contracts entered into by the Department which requires DBA insurance coverage. In preparing the cost proposal, the offeror shall use the following rates in computing the cost for such insurance:

(1) Services - *[contracting officer insert current rate]* of compensation (direct salary plus differential but excluding per diem, housing allowance, education allowance, and miscellaneous allowances); and

(2) Construction - *[contracting officer insert current rate]* of compensation.

(b) These rates apply to all job classifications in those particular categories. The successful offeror shall be advised of the name and address of the insurance broker who will process the DBA insurance coverage.

(c) Offerors shall include in their proposals a statement as to whether or not local nationals or third country nationals are proposed on this contract.

(End of provision)

652.229-70 Excise Tax Exemption Statement for Contractors Within the United States.

(TL:GS-40; 9-8-95)

As prescribed in 629.401-70, insert the following clause in solicitations and contracts if the prospective contractor is located inside the United States and the acquisition involves export of supplies to an overseas post.

Excise Tax Exemption for Contractors Within the United States (Jul 1988)

This is to certify that the item(s) covered by this contract is/are for export solely for the use of the U.S. Foreign Service Post identified in the contract schedule.

The Contractor shall use a photocopy of this contract as evidence of intent to export. Final proof of exportation may be obtained from the agent handling the shipment. Such proof shall be accepted in lieu of payment of excise tax.

(End of clause)

652.232-70 Payment Schedule and Invoice Submission (Fixed-Price).

(TL:GS-40; 9-8-95)

As prescribed in 632.908(a), the contracting officer may insert a clause substantially the same as follows:

Payment Schedule and Invoice Submission (Fixed-Price) (Dec 1994)

(a) *General.* The Government shall pay the contractor as full compensation for all work required, performed and accepted under this contract, inclusive of all costs and expenses, the firm fixed-price stated in Section B of this contract.

[Use paragraph (b) only if partial payments apply. Otherwise, paragraph (a) above assumes the contractor will be paid the full amount upon completion of all contractual requirements].

(b) *Payment Schedule.* Payments will be made in accordance with the following partial payment schedule:

Partial

Payment	Specific	Delivery	Payment
Number	Deliverable	Date	Amount

1

2

3

[Continue as necessary]

(c) *Invoice Submission.* Invoices shall be submitted in an original and [contracting officer insert appropriate number of copies] copies to the office identified in Block 5 of the SF-26 or Block 7 of the SF-33. To constitute a proper invoice, the invoice must include all items per FAR 52.232-25, "Prompt Payment".

(d) *Contractor Remittance Address.* Payment shall be made to the contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(End of clause)

652.232-71 Voucher Submission (Cost-Reimbursement).

(TL:GS-40; 9-8-95)

As prescribed in 632.908(b), the contracting officer may insert a clause substantially the same as follows:

Voucher Submission (Cost-Reimbursement) (Dec 1994)

(a) General. The contractor shall submit, on a monthly basis [contracting officer may substitute a different time frame, if appropriate], an original and [contracting officer insert appropriate number] copies of each voucher. In addition to the items necessary per FAR 52.232-25, "Prompt Payment", the voucher shall show the elements of cost for the billing period and the cumulative costs to date. All vouchers shall be submitted to the office identified in Block 5 of the SF-26 or Block 7 of the SF-33.

(b) Contractor Remittance Address. Payment shall be made to the contractor's address as specified on the cover page of this contract, unless a separate remittance address is specified below:

(End of clause)

652.237-70 Compensatory Time Off.

(TL:GS-40; 9-8-95)

As prescribed in 637.110(a), insert the following clause.

Compensatory Time Off (Dec 1994)

(a) Compensatory time off means time from work during the personal services contract employee's basic work week in exchange for performing an equal amount of irregular or occasional overtime work which is officially ordered or approved.

(b) At the discretion of the Contracting Officer's Representative (COR), the contractor may earn compensatory time off in accordance with 3 FAM Section 232.6 - Compensatory Time Off. Compensation time off remaining to the credit of a personal services contract employee at the end of a 16-week period and/or at the end of the contract period shall be forfeited.

(c) Compensatory time may not be converted to overtime.

(End of clause)

652.237-71 Identification/Building Pass.

(TL:GS-40; 9-8-95)

As prescribed in 637.110(b), insert the following clause.

Identification/Building Pass (Dec 1994)

(a) The contractor shall obtain a Department of State building pass for all employees performing under this contract who require frequent and continuing access to Department of State facilities. Passes will be issued by the Bureau of Diplomatic Security, Office of Procedural Security, Domestic Facilities Division. They shall be used for the purpose of contractor performance only, and shall not be used for any other purpose.

(b) The contractor shall submit an application in the form prescribed by the COR. The contractor shall also provide a letter on company letterhead to accompany the application containing the following information:

- (1) The purpose for which the pass is being requested;
- (2) The type of access the applicant requires;
- (3) Whether or not the applicant has a valid security clearance; and,
- (4) The contract number and period of performance of the contract.

(c) The complete package, including the COR's approval memorandum, shall be delivered to the Building Pass Application Unit, Room 309, State Annex Number 1, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.; or, the post security officer, if the contract is performed at a U.S. owned or leased building overseas. The employee(s) for whom the pass(es) is/are being requested may be required to personally submit the application and to provide evidence of identity and United States citizenship.

(d) All contractor employees shall wear the passes in plain sight at all times while in Department of State buildings. All contractor employees shall show their passes when entering these buildings and upon request.

(e) All passes shall be returned to the COR upon separation of the employee, or expiration or termination of the contract. Final payment under this contract shall not be made until all passes are returned to the COR.

(End of clause)

652.237-72 Observance of Legal Holidays and Administrative Leave.

(TL:GS-40; 9-8-95)

As prescribed in 637.110(c), insert the following clause:

Observance of Legal Holidays and Administrative Leave (Dec 1994)

(a) The Department of State observes the following days as holidays:

New Year's Day
Martin Luther King's Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans' Day
Thanksgiving Day
Christmas Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When any such day falls on a Saturday, the preceding Friday is observed; when any such day falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided.

If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

(End of clause)

652.242-70 Contracting Officer's Representative (COR).

(TL:GS-40; 9-8-95)

As prescribed in 642.271, insert a clause substantially the same as follows:

Contracting Officer's Representative (Dec 1994)

(a) The Contracting Officer may designate in writing one or more Government employees, by name and position title, to take action for the Contracting Officer under this contract. Each designee shall be identified as a Contracting Officer's Representative (COR). Such designation(s) shall specify the scope and limitations of the authority so delegated; provided, that the designee shall not change the terms or conditions of the contract, unless the COR is a warranted Contracting Officer and this authority is delegated in the designation.

(b) The COR is *[insert name of COR]*.

(End of clause)

652.242-71 Notice of Shipments.

(TL:GS-40; 9-8-95)

As prescribed in 642.1406-2-70(a), insert the following clause in solicitations and contracts entered into and performed outside the United States, when overseas shipment of supplies is required.

Notice of Shipments (Jul 1988)

At the time of delivery of supplies to a carrier for onward transportation, the Contractor shall give notice of prepaid shipment to the consignee establishment, and to other such persons as instructed by the Contracting Officer. If the Contractor has not received such instructions by 24 hours

prior to the delivery time, the Contractor shall contact the Contracting Officer and request instructions from the Contracting Officer concerning the notice of shipment to be given.

(End of clause)

652.242-72 Shipping Instructions.

(TL:GS-40; 9-8-95)

As prescribed in 642-1406-2-70(b), insert the following clause in solicitations and contracts with a source in the United States and requiring overseas shipment of supplies.

Shipping Instructions (Dec 1994)

(a) Each packing box shall be of solid construction in accordance with best commercial practices and sufficiently strong in direct ratio to the weight of the contents to withstand excessively rough handling while in transit overseas. It shall be constructed of lumber that is well seasoned, reasonably sound, free from bad cross grain and from knots or knotholes that interfere with nailing or that occupy more than 1/3 of the width of the piece of lumber. Box shall be constructed with three-way corners and diagonal bracing. All nails shall be cement-coated, of correct size and properly spaced to avoid splitting or warping, and shall be driven into the grain of the wood. Dimension of lumber shall be in accordance with the following table, dependent upon the weight of the contents:

Weight of box and contents	Minimum dimensions of lumber for struts, frame members, and single diagonal braces
Up to 45 kg	19.05 x 57.15mm

46 to 113 kg	22.23 x 73.03mm
114 to 181 kg	22.23 x 98.43mm
182 to 272 kg	22.23 x 123.83mm or 25.4 x 98.43mm

(b) Each box shall be lined with waterproof paper and shall be bound with 19.05mm steel straps firmly stapled in position to prevent the straps from slipping off the box. Articles must be secured and braced inside the shipping container to prevent the articles from shifting.

(c) Packing cases weighing 453.5 kg and more must be equipped with skids. Each skid shall consist of two end sections of 50.8 x152.4mm lumber placed flat and a center section of 50.8 x 101.6mm lumber placed flat and then arranged in line to provide 254mm forklift spaces between center and end sections. When goods are ready for shipment, the Contractor shall prepare four (4) copies of a packing list, indicating the contract and, if applicable, order numbers; case number; itemized list of contents; net and gross weights in kilograms; and outside dimensions, including all clears, of each shipping container. The Contractor shall provide three (3) copies of the packing list to the U.S. Despatch Agent specified in the contract or order. The Contractor shall place the fourth copy of the packing list in packing case number one, which shall be marked as such so that it is easily identified by the consignee. Upon receipt of the packing list, the Despatch Agent will furnish export marks and instructions regarding shipment to the port specified, depending upon steamer services available at the time.

(d) The export marks shall be stenciled on one side of each box reserved for that purpose, and the appropriate case number stenciled in the lower left-hand corner of the same side. The contract and, as necessary, order numbers, net and gross weights in kilograms shall be stenciled on the same side. However, if the size of the box is too small to accommodate all stenciling on one side, the contract and order numbers and weights may be stenciled on the side opposite that used for the export marks and case number.

(e) The contract and, as necessary, order numbers must appear on all containers and papers relating to this clause.

(End of clause)

652.246-70 Commercial Warranty.

(TL:GS-40; 9-8-95)

As prescribed in 646.710-70, insert the following clause in solicitations and contracts for commercial supplies or services awarded and performed outside the United States.

Commercial Warranty (Jul 1988)

The Contractor agrees that the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(End of clause)

PART 653 FORMS

Subpart 653.0

653.000 Scope of part.

(TL:GS-40; 9-8-95)

This part prescribes DOSAR forms in addition to those provided in FAR Part 53.

Subpart 653.1 General

653.101 Requirements for use of forms.

653.101-70 Policy.

(TL:GS-40; 9-8-95)

The forms in FAR Subpart 53.2 or Subpart 653.2 shall be used as prescribed therein, except when the use of any form is prohibited by or inconsistent with local laws, or the supplies or services could not be obtained if the form were used. The contracting officer shall justify the exclusion of any form in accordance with FAR Subpart 1.4 and 601.470. Procurement forms, including most of the Department of State forms, are available on the Department's INFOFORMS CD-ROM program.

653.110 Continuation sheets.

(TL:GS-40; 9-8-95)

The provisions of FAR 53.110 also apply to forms prescribed in the DOSAR.

Subpart 653.2 Prescription of Forms

653.200 Scope of subpart.

(TL:GS-40; 9-8-95)

This subpart prescribes or references optional and DOS forms for use in acquisition. Consistent with FAR 53.200, this subpart is arranged by subject matter, in the same order as and keyed to the parts of the DOSAR in which the form usage requirements are addressed.

653.203 Improper business practices and personal conflicts of interest.

653.203-70 DOS form DS-1926, Proprietary Information - Cover Page.

(TL:GS-40; 9-8-95)

As prescribed in 603.104-5(c), DS-1926 may be used as a cover page to mark proprietary information.

653.203-71 DOS form DS-1927, Source Selection Information - Cover Page.

(TL:GS-40; 9-8-95)

As prescribed in 603.104-5(c), DS-1927 may be used as a cover page to mark source selection information.

653.203-72 DOS form DS-1931, Procurement Official's Certification of Continuing Obligation.

(TL:GS-40; 9-8-95)

As prescribed in 603.104-7, DS-1931 shall be used as the certification for procurement officials who leave the government before award of work in excess of \$100,000 in which they were substantially involved.

653.204 Administrative matters.

653.204-70 DOS forms (DS-1928, DS-1929, DS-1930, DS-1771).

(TL:GS-40; 9-8-95)

(a) As prescribed in 604.803-70 (b)(1) and (3), the following forms are prescribed for use in documenting contract files:

(1) DS-1928, *Contract Administration File*. DS-1928 is prescribed for use by offices which prefer to have a separate file folder for contract modifications or delivery orders.

(2) DS-1929, *Overseas Contract File Table of Contents*. DS-1929 is prescribed for mandatory use by overseas posts for documenting contract files.

(3) DS-1930, *Domestic Contract File Table of Contents*. DS-1930 is prescribed for mandatory use by domestic contracting activities for documenting contract files.

(b) As prescribed in 604.804-70(d)(1), DS-1771, *Contractor Evaluation Statement*, shall be used as a contractor evaluation form for services other than construction or architect-engineering.

653.213 Simplified acquisition procedures (SF's 18, 30, 44, 1165; OF's 347, 348).

653.213-70 DOS forms (OF-206, OF- 206A, OF-127, DST-1918, DST-1919, DST-1920).

(*TL:GS-40; 9-8-95*)

As provided in 613.505-2 and 613.505-70, the following forms are prescribed for use in simplified acquisitions, delivery orders, and blanket purchase agreements:

(a) *Optional Form (OF) 206, Purchase Order, Receiving Report and Voucher, and Optional Form (OF) 206A, Continuation Sheet*. OF-206 and OF-206A are prescribed for use by overseas contracting activities in lieu of the OF-347 and OF-348, as specified in 613.505-2(a).

(b) *Optional Form (OF) 127, Receiving and Inspection Report*. OF-127 is prescribed for use by overseas contracting activities as a receiving report when using the OF-206, as specified in 613.505-2(b). The OF-127 may be used as a receiving report in conjunction with other contract forms (e.g., SF—26, SF—33) by both domestic and overseas contracting activities.

(c) *DST-1918, Purchase Order File*. DST-1918 is prescribed for use in recording and documenting relevant data pertaining to open market simplified acquisitions, as specified in 613.505-70.

(d) *DST-1919, Delivery Order File*. DST-1919 is prescribed for use in recording and documenting relevant data pertaining to delivery orders issued against GSA mandatory and nonmandatory schedule contracts, as well as Department of State and other agency contracts, as specified in 613.505-70.

(e) *DST-1920, Blanket Purchase Agreement (BPA) File*. DST-1920 is prescribed for use in recording and documenting relevant data pertaining to Blanket Purchase Agreements, as specified in 613.505-70.

653.217 Special contracting methods.

653.217-70 DOS form DS-1921, Award/Modification of Interagency Acquisition Agreement.

(TL:GS-40; 9-8-95)

As prescribed in 617.504-70(b), DS-1921 is prescribed for use when awarding or modifying Economy Act Interagency Acquisition Agreements where the Department is the requesting agency.

653.219 Small business and small disadvantaged business concerns.

653.219-70 DOS form DS-1910, Small Business/Labor Surplus Agency Review - Actions Above the Simplified Acquisition Threshold.

(TL:GS-40; 9-8-95)

As prescribed in 619.501(c) and 620.201-1, DS-1910 is prescribed for use in documenting set-aside decisions.

653.242 Contract administration.

653.242-70 DOS form DS-1924, Certificate of Appointment.

(TL:GS-40; 9-8-95)

As prescribed in 642.270(f)(2), DS-1924 is prescribed for use in appointing Contracting Officer's Representatives.

Subpart 653.3 Illustrations of Forms

653.000 Scope of subpart.

(TL:GS-40; 9-8-95)

This subpart contains illustrations of forms prescribed in the DOSAR but not illustrated in FAR Subpart 53.3.

653.303 Agency forms.

(TL:GS-40; 9-8-95)

This section illustrates the DOS forms that are specified by the DOSAR for use in acquisitions. The forms are illustrated in numerical order. The subsection numbers correspond with the DOS form numbers.

6 FAM 200 Appendix E DOSAR DS-1926

653.302.127 OPTIONAL FORM 127,
RECEIVING AND INSPECTION REPORT

RECEIVING AND INSPECTION REPORT		METHOD OF ACQUISITION		DOCUMENT NUMBERS	
RECEIVED FROM NAME AND ADDRESS 		<input type="checkbox"/> PURCHASED <input type="checkbox"/> RENTED <input type="checkbox"/> CONSTRUCTED <input type="checkbox"/> LOANED <input type="checkbox"/> DONATED <input type="checkbox"/> INVENTORY OVERAGE <input type="checkbox"/> (OTHER) APPROPRIATION ALLOTMENT OBJECTIVE CLASS		REPORT NO.	
				P.O. NO.	
				REQUISITION NO.	
				TRANSFER AUTHORITY NO.	
				CONTRACT NO.	
POINT OF SHIPMENT		GBL NO.		JOB NO.	
ITEM NO.	DESCRIPTION (Include Terms of Acceptance on Loans, Donations, Etc.)	QUANTITY	UNIT	UNIT PRICE	AMOUNT
CERTIFICATE OF RECEIPT		INSPECTOR'S CERTIFICATE			
I HEREBY CERTIFY THAT ALL ITEMS LISTED ABOVE WERE RECEIVED, INSPECTED AND ACCEPTED. NAME (Type or Print) _____ OFFICE SYMBOL _____ SIGNATURE _____ DATE _____		<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL <input type="checkbox"/> OVER <input type="checkbox"/> SHORT <input type="checkbox"/> DEFECTIVE MATERIAL (USE REVERSE FOR COMMENTS)			

60127-102 NSN 7540-00-138-9185

OPTIONAL FORM 127
REV. JANUARY 1982
STATE - AID - USICA

6 FAM 200 Appendix E DOSAR DS-1927

653.302.206 OPTIONAL FORM 206, PURCHASE ORDER, RECEIVING REPORT AND VOUCHER

Form approved by Comptroller General, U.S. March 19, 1953		PURCHASE ORDER, RECEIVING REPORT AND VOUCHER (For use in foreign countries only)		D.O. Vou. No.													
Department or Establishment <div style="text-align: center;">U. S.</div>		Purchase Order No.		Bu. Vou. No.													
Prepared at _____ (place) _____ (date)		PAID BY															
Purchaser <div style="text-align: center;">THE UNITED STATES GOVERNMENT, DR.</div>																	
Seller (Payee)																	
Address of seller																	
Contract No. _____ (dated)																	
Order is hereby placed with the above-named seller for the articles or services described below, to be furnished:																	
In _____ at _____																	
ITEM NOS.	ARTICLES OR SERVICES	QUANTITY	UNIT PRICE		AMOUNT												
			Cost	Per													
Use continuation sheet(s) if necessary.																	
Ordering Officer (Signature)		Approp. _____ Allos. _____		Funds Available:													
Name:		Obl. No.		Name:													
Title:		Amt.		Title:													
I certify that the ordered items listed were received on _____ (date) except as follows:		PAYMENT: <input type="checkbox"/> Complete <input type="checkbox"/> Partial <input type="checkbox"/> Final		Amount billed, as per attached bill(s) Differences Amount verified correct for Prepayment Audit (Signature or initials)													
Signature		Pursuant to authority vested in me, I certify this voucher correct and proper for payment. Signature of Authorized Certifying Officer															
Name:																	
Title:																	
Approved for \$ _____		Name: Title:															
Exchange rate _____ to \$ _____																	
ACCOUNTING CLASSIFICATION																	
Fund	Allotment	Oblig. No.	Paying Office	Date Paid	Object												
<table border="0" style="width: 100%;"> <tr> <td style="width: 5%; padding: 2px;">P</td> <td style="padding: 2px;">Check No. _____ dated _____, 19____, for \$ _____ on Treasurer of United States.</td> </tr> <tr> <td style="padding: 2px;">A</td> <td style="padding: 2px;">Check No. _____ dated _____, 19____, for _____ on _____</td> </tr> <tr> <td style="padding: 2px;">I</td> <td style="padding: 2px;">Cash _____ on _____ 19____</td> </tr> <tr> <td style="padding: 2px;">D</td> <td style="padding: 2px;">Payee _____</td> </tr> <tr> <td style="padding: 2px;">B</td> <td style="padding: 2px;">Title of Payee: _____</td> </tr> <tr> <td style="padding: 2px;">Y</td> <td></td> </tr> </table>						P	Check No. _____ dated _____, 19____, for \$ _____ on Treasurer of United States.	A	Check No. _____ dated _____, 19____, for _____ on _____	I	Cash _____ on _____ 19____	D	Payee _____	B	Title of Payee: _____	Y	
P	Check No. _____ dated _____, 19____, for \$ _____ on Treasurer of United States.																
A	Check No. _____ dated _____, 19____, for _____ on _____																
I	Cash _____ on _____ 19____																
D	Payee _____																
B	Title of Payee: _____																
Y																	

6 FAM 200 Appendix E DOSAR DS-1931

IMPORTANT NOTICE TO SELLER

1. The entering office is exempt from taxes.
2. The invoice must be submitted in two copies. Carriers' invoices covering transportation and/or accessorial services shall show on the original the following certification statement, manually signed by the vendor or vendor's authorized representative and dated: "I certify that the above bill is correct and just and that payment therefor has not been received."
3. The order number shown in the upper right hand corner of this purchase order must be shown on your invoices.
4. All communications concerning this order must refer to order number and be addressed to the originating office.
5. Discount terms, if any, must be shown on all bills.

6 FAM 200 Appendix E DOSAR DS-1929(a)

DEPARTMENT OF STATE WASHINGTON, DC 20520 ORDER — SUPPLIES OR SERVICES <i>(Subject to terms and conditions on reverse side)</i>						Page	of	Pages
ORDER NUMBER MUST APPEAR ON ALL PACKAGES AND RELATED PAPERS:						ATTENTION: PHONE:		
1 Item	2 CONTRACT NUMBER	3 C	4 DEST	5 PSC	6 SHIPPING INSTRUCTIONS	7 ORDER NUMBER		
8 Comm	9 GBL NUMBER	10 Type	11 Date P	12 REQ OFFICE	13 Date Recd	All	14 Date Sig	
15 DESCRIPTION								16 AMOUNT
17 APPROPRIATION		ALLOTMENT		OBJUG	ORG	FUNC	OBJ	S OBJ
18 CONTRACTOR				19 CONSIGNEE AND DESTINATION				
TO:				S H I P T O				
DUNS ID.				20 ULTIMATE DESTINATION				
ZIP								
LINE ITEM	CATALOG/NSN	S. ID	SUPPLIES OR SERVICES	Delivery Date	U O I	NO OF UNITS	UNIT PRICE	TOTAL
21 FOB POINT/FAS POINT				22 DISCOUNT		23 ISSUER'S NAME		24 ISSUER'S PHONE
<p align="center">BILLING INSTRUCTIONS</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>Contractor's invoice shall be submitted in an original and one copy to: Office of Finance — General Claims P.O. Box 9487 Rosslyn Station Arlington, VA 22209</p> <p>Invoices must show the Department's 10 digit order number, time payment discount (even if net), description of each item, quantity, unit</p> </div> <div style="width: 48%;"> <p>cost and total amount. Contractor must furnish signed receipt from transportation carrier as proof that shipment has been forwarded.</p> <p>When Contractor is requested to prepay transportation charges against an F.O.B. order, such charges are to be added as a separate item to the invoice and must be supported by a paid transportation receipt. If shipment via APO, furnish postal receipts.</p> </div> </div>								
25 CONTRACTING/ORDERING OFFICER _____ Signature _____ Date _____								

6 FAM 200 Appendix E DOSAR DS-1929(b)

6 FAM 200 Appendix E DOSAR DS-1929(c)

**6 FAM 200 Appendix E DOSAR
DS-1929(d)**

6 FAM 200 Appendix E DOSAR DS-1929(e)

6 FAM 200 Appendix E DOSAR DS-1929(f)

6 FAM 200 Appendix E DOSAR DS-1930(a)

6 FAM 200 Appendix E DOSAR DS-1930(b)

6 FAM 200 Appendix E DOSAR DS-1930(c)

6 FAM 200 Appendix E DOSAR DS-1930(d)

6 FAM 200 Appendix E DOSAR DS-1930(e)

6 FAM 200 Appendix E DOSAR DS-1930(f)

6 FAM 200 Appendix E DOSAR DS-1771

6 FAM 200 Appendix E DOSAR OF-127

6 FAM 200 Appendix E DOSAR OF-206

6 FAM 200 Appendix E DOSAR OF-206

6 FAM 200 Appendix E DOSAR OF-206

6 FAM 200 Appendix E DOSAR OF-206A

6 FAM 200 Appendix E DOSAR DS-1921

6 FAM 200 Appendix E DOSAR DS-1910

6 FAM 200 Appendix E DOSAR DS-1910

6 FAM 200 Appendix E DOSAR DS-1924

6 FAM 200 Appendix E DOSAR

List of Supplements to DOSAR

Title	DOSAR Reference
1. List of Persons Authorized Access to Proprietary or Source Selection Information	603.104-5(d)(1)
2. Worldwide Procurement Database Overseas User's Guide - Office Codes	604.170(c)(1)
3. Contract Closeout Checklist	604.804-70(d)
4. Memorandum to COR Requesting Completion of Closeout Documentation	604.804-70(d)(1)
5. COR Completion Certificate	604.804-70(d)(1)
6. Final Payment and Closeout Memorandum	604.804-70(d)(1)
7. Final Payment Memorandum to Finance	604.804-70(d)(2)
8. Letter Requesting Contractor's Release and Assignment of Refunds, Rebates, and Credits	604.804-70(d)(4)
9. Contractor's Release	604.804-70(d)(4)
10. Contractor's Release (Partial Release)	604.804-70(d)(4)
11. Contractor's Assignment of Refunds, Rebates, and Credits	604.804-70(d)(4)
12. SBA Contract Completion Format	604.804-70(d)(7)
13. Department of State Justification and Approval for Other than Full and Open Competition (Overseas Posts)	606.303-2
14. Department of State Justification and Approval for Other than Full and Open Competition (Domestic Contracting Activities)	606.303-2
15. Department of State Justification for Other than Full and Open Competition - Motor Vehicle Standardization	606.370(b)
16. Department of State Justification for Other than Full and Open Competition -Appliance Standardization	606.370(b)
17. Department of State Authorization to Issue Non-Metric Solicitation	610.002-70(d)(3)(ii)
18. Draft Policy to be Issued by the CFO - Interagency Acquisition Agreements Under Authorities Other than the Economy Act	617.500
19. Model Determination and Findings for an Interagency Acquisition Agreement Under the Economy Act	617.503
20. 13 CFR 124.308(g)	619.870(b)
21. Department of State Justification for	623.475(b)

Procuring EPA-Designated Items that do not
Contain Recovered Materials

22. ADR/Acknowledgment Letter	633.214-70(b)(3)
23. A/OPE Memo on Delegation of Personal Services Contracting Authority for U.S. Citizens and Foreign Nationals at Overseas Posts	637.104-70(a)
24. Non-FSI Sources for COR Training	642.270(d)
25. COR Nomination Format	642.270(f)(1)
26. Sample Delegation Memo - Generic	642.270(f)(2)
27. Sample Delegation Memo for PSC Contracts	642.270(f)(2)
28. Sample Delegation Memo for Construction Contracts	642.270(f)(2)
29. Sample Delegation Memo for Supplies/ Services	642.270(f)(2)
30. Sample Delegation Memo for A&E Services	642.270(f)(2)
31. COR Replacement Format	642.270(f)(4)

6 FAM 200 Appendix E DOSAR
Procurement Integrity FAR 3.104-5(d) and
DOSAR 603.104-5(d)(1)

List of Persons Authorized Access to
Proprietary or Source Selection Information

For: [] SOLICITATION NUMBER _____
 [] CONTRACT NUMBER _____
 [] MODIFICATION NUMBER _____

NAME	OFFICE
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

[] In addition, the classes of persons listed in DOSAR 603.104-5(d)(2) are
authorized access to proprietary and source selection information.

Contracting Officer Signature _____

6 FAM 200 Appendix E DOSAR Worldwide Procurement Database

Overseas Users' Guide, Version 2.0

Office Codes (Revised March 1994)

OVERSEAS OFFICES

TU100	CONSULATE - ADANA
CO100	CONSULATE-BARRANQUILLA
SP140	CONSULATE - BILBOA
AS100	CONSULATE - BRISBANE
RP200	CONSULATE - CEBU
CM100	CONSULATE - DOULA
JA250	CONSULATE - FUKUOKA
MX570	CONSULATE - HERMOSILLO
VE600	CONSULATE-MARACAIBO
MX500	CONSULATE-MATAMOROS
MX510	CONSULATE - MAZATLAN
MX520	CONSULATE - MERIDA
KE400	CONSULATE - MOMBASA
JA505	CONSULATE - NAGOYA
MX610	CONSULATE - NUEVO LAREDO
AG600	CONSULATE - ORAN
PK700	CONSULATE - PESHAWAR
PO605	CONSULATE - PONTA DELGADA
BR720	CONSULATE - PORTO ALEGRE
KS650	CONSULATE - PUSAN
BR810	CONSULATE - RECIFE
TH800	CONSULATE - SONGKHLA
TH904	CONSULATE - UDORN
IV100	EMBASSY- ABIDJAN
TC100	EMBASSY- ABU DHABI
GH100	EMBASSY- ACCRA
ET100	EMBASSY- ADDIS ABABA
AG100	EMBASSY- ALGIERS
KZ100	EMBASSY- ALMA-ATA
JO100	EMBASSY- AMMAN
TU150	EMBASSY- ANKARA
MA100	EMBASSY- ANTANANARIVO
WS100	EMBASSY- APIA
TX100	EMBASSY- ASHGABAT
ER100	EMBASSY- ASMARA
PA100	EMBASSY- ASUNCION

GR100	EMBASSY- ATHENS
AJ200	EMBASSY- BAKU
ML200	EMBASSY- BAMAKO
BX600	EMBASSY- BANDAR SERI BEGAWAN
TH200	EMBASSY- BANGKOK
CT200	EMBASSY- BANGUI
GA100	EMBASSY- BANJUL
CH500	EMBASSY- BEIJING
LE200	EMBASSY- BEIRUT
YO100	EMBASSY- BELGRADE
BH200	EMBASSY- BELIZE CITY
SZ230	EMBASSY- BERN
KG100	EMBASSY- BISHKEK
PU100	EMBASSY- BISSAU
CO150	EMBASSY- BOGOTA
GE250	EMBASSY- BONN (RPSO)
BR250	EMBASSY- BRASILIA
CZ100	EMBASSY- BRATISLAVA
CF200	EMBASSY- BRAZZAVILLE
BB210	EMBASSY- BRIDGETOWN
BE200	EMBASSY- BRUSSELS
RO100	EMBASSY- BUCHAREST
HU200	EMBASSY- BUDAPEST
AR200	EMBASSY- BUENOS AIRES
BY700	EMBASSY- BUJUMBURA
EG300	EMBASSY- CAIRO
AS200	EMBASSY- CANBERRA
VE300	EMBASSY- CARACAS
MD700	EMBASSY- CHISINAU
CE200	EMBASSY- COLOMBO
GV100	EMBASSY- CONAKRY
DA200	EMBASSY- COPENHAGEN
BN150	EMBASSY- COTONOU
SG200	EMBASSY- DAKAR
SY400	EMBASSY- DAMASCUS
TZ200	EMBASSY- DAR ES SALAAM
BG300	EMBASSY- DHAKA
DJ100	EMBASSY- DJIBOUTI
QA100	EMBASSY- DOHA
EI300	EMBASSY- DUBLIN
TI400	EMBASSY- DUSHANBE
SL200	EMBASSY- FREETOWN
BC400	EMBASSY- GABORONE
GY200	EMBASSY- GEORGETOWN
GT500	EMBASSY- GUATEMALA CITY
ZI150	EMBASSY- HARARE
FI300	EMBASSY- HELSINKI

BP200	EMBASSY- HONIARA
PK330	EMBASSY- ISLAMABAD
ID320	EMBASSY- JAKARTA
UG500	EMBASSY- KAMPALA
NP400	EMBASSY- KATHMANDU
SU400	EMBASSY- KHARTOUM
UP300	EMBASSY- KIEV
RW600	EMBASSY- KIGALI
JM370	EMBASSY- KINGSTON
CG500	EMBASSY- KINSHASA
NQ200	EMBASSY- KOLONIA
MY300	EMBASSY- KUALA LUMPUR
KU200	EMBASSY- KUWAIT
BL400	EMBASSY- LA PAZ
NI500	EMBASSY- LAGOS
GB500	EMBASSY- LIBREVILLE
MI600	EMBASSY- LILONGWE
PE500	EMBASSY- LIMA
PO500	EMBASSY- LISBON
SI600	EMBASSY- LJUBLJANA
TO400	EMBASSY- LOME
UK560	EMBASSY- LONDON
ZA600	EMBASSY- LUSAKA
LU500	EMBASSY- LUXEMBOURG
SP500	EMBASSY- MADRID
RM280	EMBASSY- MAJURO
EK200	EMBASSY- MALABO
NU700	EMBASSY- MANAGUA
RP380	EMBASSY- MANILA
MZ500	EMBASSY- MAPUTO
LT600	EMBASSY- MASERU
WZ600	EMBASSY- MBABANE
MX530	EMBASSY- MEXICO CITY
BO492	EMBASSY- MINSK
LI600	EMBASSY- MONROVIA
UY600	EMBASSY- MONTEVIDEO
CN100	EMBASSY- MORONI
UR500	EMBASSY- MOSCOW
MU300	EMBASSY- MUSCAT
CD300	EMBASSY- N'DJAMENA
KE500	EMBASSY- NAIROBI
BF500	EMBASSY- NASSAU
IN650	EMBASSY- NEW DELHI
NG600	EMBASSY- NIAMEY
CY600	EMBASSY- NICOSIA
MR600	EMBASSY- NOUAKCHOTT
NO600	EMBASSY- OSLO

CA525	EMBASSY- OTTAWA ONTARIO
UV700	EMBASSY- OUAGADOUGOU
PM070	EMBASSY- PANAMA CITY
NS500	EMBASSY- PARAMARIBO
FR630	EMBASSY- PARIS
MP100	EMBASSY- PORT LOUIS
PP500	EMBASSY- PORT MORESBY
HA700	EMBASSY- PORT-AU-PRINCE
TD550	EMBASSY- PORT-OF-SPAIN
CZ800	EMBASSY- PRAGUE
CV105	EMBASSY- PRAIA
SF750	EMBASSY- PRETORIA
EC750	EMBASSY- QUITO
MO550	EMBASSY- RABAT
BM800	EMBASSY- RANGOON
IC700	EMBASSY- REYKJAVIK
LG750	EMBASSY- RIGA
SA700	EMBASSY- RIYADH
IT700	EMBASSY- ROME
CS800	EMBASSY- SAN JOSE
ES600	EMBASSY- SAN SALVADOR
YE700	EMBASSY- SANAA
CI800	EMBASSY- SANTIAGO
DR860	EMBASSY- SANTO DOMINGO
KS700	EMBASSY- SEOUL
SN100	EMBASSY- SINGAPORE (RPSO)
BU800	EMBASSY- SOFIA
GJ590	EMBASSY- ST. GEORGE'S
AC600	EMBASSY- ST. JOHNS
SW800	EMBASSY- STOCKHOLM
FJ600	EMBASSY- SUVA
EN100	EMBASSY- TALLINN
UZ800	EMBASSY- TASHKENT
GG800	EMBASSY- TBILISI
HO800	EMBASSY- TEGUCIGALPA
IS700	EMBASSY- TEL AVIV
NL800	EMBASSY- THE HAGUE
AL600	EMBASSY- TIRANA
JA800	EMBASSY- TOKYO
TS800	EMBASSY- TUNIS
MG100	EMBASSY- ULAANBAATAR
MT850	EMBASSY- VALLETTA
VT900	EMBASSY- VATICAN CITY
SE200	EMBASSY- VICTORIA
AU900	EMBASSY- VIENNA
LA900	EMBASSY- VIENTIANE
LH500	EMBASSY- VILNIUS

PL900	EMBASSY- WARSAW
NZ950	EMBASSY- WELLINGTON
WA800	EMBASSY- WINDHOEK
CM800	EMBASSY- YAOUNDE
AM100	EMBASSY- YEREVAN
HR900	EMBASSY- ZAGREB
EG100	CONS. GEN.- ALEXANDRIA
NL100	CONS. GEN.- AMSTERDAM
NZ100	CONS. GEN.- AUCKLAND
SP100	CONS. GEN.- BARCELONA
UK040	CONS. GEN.- BELFAST
IN292	CONS. GEN.- BOMBAY
FR045	CONS. GEN.- BORDEAUX
IN300	CONS. GEN.- CALCUTTA
CA105	CONS. GEN.- CALGARY
SF200	CONS. GEN.- CAPETOWN
MO300	CONS. GEN.- CASABLANCA
CH510	CONS. GEN.- CHENGDU
TH250	CONS. GEN.- CHIANG MAI
MX115	CONS. GEN.- CIUDAD JUAREZ
NA300	CONS. GEN.- CURACAO
SA200	CONS. GEN.- DHAHRAN
TC120	CONS. GEN.- DUBAI
SF300	CONS. GEN.- DURBAN
UK380	CONS. GEN.- EDINBURGH
IT250	CONS. GEN.- FLORENCE
GE500	CONS. GEN.- FRANKFURT
IT300	CONS. GEN.- GENOA
MX300	CONS. GEN.- GUADALAJARA
CH250	CONS. GEN.- GUANGZHOU
EC300	CONS. GEN.- GUAYAQUIL
CA280	CONS. GEN.- HALIFAX
E550	CONS. GEN.- HAMBURG
BD200	CONS. GEN.- HAMILTON
HK300	CONS. GEN.- HONG KONG
TU460	CONS. GEN.- ISTANBUL
SA400	CONS. GEN.- JEDDA
IS400	CONS. GEN.- JERUSALEM
SF500	CONS. GEN.- JOHANNESBURG
NI300	CONS. GEN.- KADUNA
PK400	CONS. GEN.- KARACHI
PL700	CONS. GEN.- KRAKOW
PK500	CONS. GEN.- LAHORE
GE585	CONS. GEN.- LEIPZIG
CG600	CONS. GEN.- LUBUMBASHI
IN600	CONS. GEN.- MADRAS
FR540	CONS. GEN.- MARSEILLE

MB300	CONS. GEN.- MARTINIQUE
ID500	CONS. GEN.- MEDAN
AS500	CONS. GEN.-MELBOURNE
IT520	CONS. GEN.-MILAN
MX560	CONS. GEN.-MONTERREY
GE600	CONS. GEN.-MUNICH
JA507	CONS. GEN.-NAHA
IT550	CONS. GEN.-NAPLES
JA580	CONS. GEN.-OSAKA-KOBE
IT600	CONS. GEN.-PALERMO
AS600	CONS. GEN.- PERTH
PL800	CONS. GEN.- POZAN
CA595	CONS. GEN.- QUEBEC
BR820	CONS. GEN.- RIO DE JANEIRO
AU800	CONS. GEN.- SALZBURG
BR930	CONS. GEN.- SAO PAULO
JA705	CONS. GEN.- SAPPORO
CH580	CONS. GEN.- SHANGHAI
CH586	CONS. GEN.- SHENYANG
UR400	CONS. GEN.- ST. PETERSBURG
FR825	CONS. GEN.- STRASBOURG
GE900	CONS. GEN.- STUTTGART
ID800	CONS. GEN.- SURABAYA
AS700	CONS. GEN.- SYDNEY
GR650	CONS. GEN.- THESSALONIKI
MX720	CONS. GEN.- TIJUANA
CA700	CONS. GEN.- TORONTO
CA770	CONS. GEN.- VANCOUVER
RS890	CONS. GEN.- VLADIVOSTOCK
SZ970	CONS. GEN.- ZURICH
FR525	U.S. COMMERCIAL OFFICE- LYON
CU040	U.S. INTEREST SECTION- HAVANA
AU901	U.S. MISSION- GENEVA
FI301	SUPPORT OFFICE- HELSINKI
PS470	U.S. LIAISON OFFICE- KOROR
SO500	U.S. LIAISON OFFICE- MOGADISHU
PO600	AM. BUSINESS CENTER- OPORTO
GE210	BR. OFFICE OF U.S. EMBASSY- BERLIN
BE100	SUPPORT OFFICE- ANTWERP
YO800	U.S. LIAISON OFFICE- SKOPJE
BK800	U.S. MISSION TO BOSNIA HERZEGOVINA
AO500	U.S. LIAISON OFFICE- LUANDA
RO120	BRANCH OFFICE OF EMBASSY- CLUJ-NAPOCA

DOMESTIC OFFICES

PRCOM	BUREAU OF POPULATION, REFUGEE, AND MIGRATION
FBOARD	FOREIGN BUILDINGS OPERATIONS

FSIAQ	FOREIGN SERVICE INSTITUTE
INTOA	INTERNATIONAL ORGANIZATIONS AFFAIRS
OPRLS	LANGUAGE SERVICES
OPRLR	LIBRARY
ARAMR	MIAMI REGIONAL CENTER (ARA)
MEBCO	MOSCOW EMBASSY BUILDINGS CONTROL OFFICE
OPRAQ	OFFICE OF ACQUISITIONS
DTSP0	OFFICE OF DIPLOMATIC TELECOMMUNICATIONS SERVICE
	PROGRAM OFFICE
MOFMA	OFFICE OF FOREIGN MISSIONS
MACPO	MAJOR ACQUISITIONS PROGRAM OFFICE
OPROS	OFFICE OF OVERSEAS SCHOOLS
SODSP	DIGITAL SYSTEMS PROGRAMS
USUNA	U.S. MISSION TO UNITED NATIONS

6 FAM 200 Appendix E DOSAR

Contract Closeout Checklist

(Reference DOSAR 604.804-70(d))

Contract Closeout Checklist,

Department of State
Contracting Activity Address:

Contract No. _____
Last Modification No. _____
Last Call or Order No. _____

1. Contractor Name and Address

2. Total Amount fo Excess Funds, if any: _____

3. If final payment has been made:

Invoice/Voucher Number _____ Date: _____

4. If the final approved invoice/voucher has been forwarded to a disbursing office of another agency or activity and the status of the payment is unknown:

Invoice/Voucher Number _____ Date: _____

5. COR Completion of:

Completed

Completion Certificate	[]
Contractor Evaluation Forms (DS-1771, SF-1420 or SF-1421*)	[]
Final Payment and Closeout of Contract	[]

6. Other Closeout Actions, if Required

Completed

N/A

a. Disposition of classified material	[]	[]
b. Final patent report cleared	[]	[]
c. Final royalty report cleared	[]	[]
d. There is no outstanding value engineering change proposal	[]	[]
e. Property Clearance Report received	[]	[]

6 FAM 200 Appendix E DOSAR

Contract Closeout Checklist

(Reference DOSAR 604.804-70(d))

Contract Closeout Checklist, continued

f.	All interim or disallowed costs settled	<input type="checkbox"/>	<input type="checkbox"/>
g.	Price revision completed	<input type="checkbox"/>	<input type="checkbox"/>
h.	Subcontracts settled by prime contractor	<input type="checkbox"/>	<input type="checkbox"/>
i.	Prior year indirect cost rates settled	<input type="checkbox"/>	<input type="checkbox"/>
j.	Termination docket completed	<input type="checkbox"/>	<input type="checkbox"/>
k.	Contract audit complete	<input type="checkbox"/>	<input type="checkbox"/>
l.	Contractor's closing statement complete	<input type="checkbox"/>	<input type="checkbox"/>
m.	Contractor's final invoice submitted	<input type="checkbox"/>	<input type="checkbox"/>
n.	Deobligation of excess funds recommended	<input type="checkbox"/>	<input type="checkbox"/>
o.	All change orders definitized	<input type="checkbox"/>	<input type="checkbox"/>

In addition, for construction contracts:

p.	Punch lists corrected	<input type="checkbox"/>	<input type="checkbox"/>
q.	All as-built drawings, shop drawings, operating	<input type="checkbox"/>	<input type="checkbox"/>
r.	Final acceptance letter issued	<input type="checkbox"/>	<input type="checkbox"/>
s.	All warranties and guarantees submitted	<input type="checkbox"/>	<input type="checkbox"/>

ALL CONTRACTUAL ACTIONS REQUIRED UNDER THIS CONTRACT HAVE BEEN COMPLETED.

Contracting Officer

Date

* Copy of performance evaluation on each contractor should remain in the contracting activity files for future responsibility determinations.

6 FAM 200 Appendix E DOSAR Memorandum to COR Requesting Completion of Closeout Documentation

(Reference DOSAR 604.804-70(d)(1))

MEMORANDUM

TO: [Contracting Officer's Representative]

FROM: [Contracting Activity] [Contracting Officer]

SUBJECT: [Contractor] Contract No. [Number] - Closeout

In order to close out contract no. [number] with [contractor], the attached documents must be completed and returned to the [contracting activity address] as soon as possible. Questions should be referred to [contract specialist], [phone].

Attachments: Completion Certificate
Contractor Evaluation Form
Final Payment and Closeout of Contract

6 FAM 200 Appendix E DOSAR COR Completion Certificate

(Reference DOSAR 604.804-70(d)(1))

MEMORANDUM

TO: [Contracting Activity - Contracting Officer]

FROM: [COR]

SUBJECT: Completion Certificate - Contract No. _____
with _____

As the Contracting Officer's Representative for the subject contract, I hereby certify that:

1. All services specified to be accomplished under the terms and conditions of the contract have been satisfactorily completed;
2. All services and/or goods required to be delivered under the contract have been received and accepted;
3. The contractor has not been requested to provide any services and/or goods in addition to or other than the services and/or goods specified in the contract;
4. All Government-furnished equipment and/or other items provided to or purchased by the contractor and required to be returned by the contractor under the terms and conditions of the contract have been received; and
5. If applicable, all identification/building passes have been returned to the COR.

Date Contract Expired: _____

Signature: _____

Typed Name: _____

6 FAM 200 Appendix E DOSAR Final Payment and Closeout Memorandum

(Reference DOSAR 604.804-70(d)(1))

MEMORANDUM

TO: [Contracting Activity - Contracting Officer]

SUBJECT: Final Payment and Closeout of Contract No. _____
with _____

REF: Final Voucher/Invoice No. _____
Date of Voucher/Invoice _____

I hereby certify that the services under the subject contract have been delivered and accepted by the Department of State. Therefore, the referenced voucher/invoice represents the final payment under this contract and is hereby approved.

Contracting Officer's Representative
Signature

Date

Attachment: Voucher/Invoice No. _____

6 FAM 200 Appendix E DOSAR

Final Payment Memorandum to Finance

(Reference DOSAR 604.804-70(d)(2))

MEMORANDUM

TO: [Payment Office]

FROM: [Contracting Activity - Contracting Officer]

SUBJECT: Final Payment and Closeout of Contract No. _____
with _____

REF: Final Voucher/Invoice No. _____
Date of Voucher/Invoice _____

The Contracting Officer's Representative has certified that the services and/or goods under the subject contract have been delivered and accepted by the Department of State. The referenced voucher/invoice meets the requirements of the subject contract, and therefore, appears proper for payment and should constitute the final payment under this contract.

Contracting Officer

Date

Attachment: Voucher/Invoice No. _____

6 FAM 200 Appendix E DOSAR
Letter Requesting Contractor's Release
and Assignment of Refunds, Rebates, and
Credits

(Reference DOSAR 604.804-70(d)(4))

[Contractor's name and address]

RE: Contract Number _____

Dear [insert name]:

Contract number [insert number] expired on [insert date]. Pursuant to FAR [cite payment clause], the enclosed Contractor's Release and Contractor's Assignment of Refunds, Rebates, and Credits documents must be completed and returned to [insert address].

Final payment under this contract cannot be made until these documents are received by this office.

Thank you for your attention to this matter.

Sincerely,

[insert name]

Contracting Officer

Enclosures: As stated

6 FAM 200 Appendix E DOSAR

Contractor's Release

(Reference DOSAR 604.804-70(d)(4))

Pursuant to the terms of Contract. No. _____ and in consideration of the sum of _____ Dollars (\$ _____), which has been or is to be paid under the said contract to _____

(herein after called the Contractor) or his assignees, if any, the Contractor upon payment of the said sum by the United States of America (herein after called the Government), does hereby remise, release, and discharge the Government, its officers, agents, and employees of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract, except:

Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows: _____

IN WITNESS WHEREOFF, this release has been executed this _____ day of _____, 19____.

WITNESSES

_____ BY _____
_____ TITLE _____

CERTIFICATE

I, _____, certify that I am the _____ of the corporation named as Contractor in the foregoing release; that _____ who signed said release on behalf of the Contractor was then _____

that said release was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

6 FAM 200 Appendix E DOSAR

Contractor's Release (Partial Release)

(Reference DOSAR 604.804-70(d)(4))

Pursuant to the terms of Contract No. _____ and in consideration of the sum of _____ Dollars (\$ _____), which has been or is to be paid under the said contract to _____

(hereinafter called the Contractor) or his assignees, if any, the Contractor upon payment of the said sum by the United States of America (hereinafter called the Government), does hereby remise, release, and discharge the Government, its officers, agents, and employees of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract, except:

Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor as follows: _____

(if none, so state)

IN WITNESS WHEREOFF, this release has been executed this _____ day of _____, 19____.

(Contractor)

WITNESSES

_____ BY _____

_____ TITLE _____

—
(NOTE: In the case of a corporation, witnesses are not required, but the certificate below be completed)

CERTIFICATE

I, _____, certify that I am the _____
(Official Title)

of the corporation named as Contractor in the foregoing release; that _____ who signed said release on behalf of the Contractor was then _____ of said corporation;

(Official Title)

that said release was duly signed for an in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

6 FAM 200 Appendix E DOSAR Contractor's Assignment of Refunds, Rebates, and Credits

(Reference DOSAR 604.804-70(d)(4))

Contract Number _____

Pursuant to the terms of Contract Number _____ and in consideration of the reimbursement of costs, as provided in the said contract and any assignment thereunder, the [insert Contractor's name and address], (hereinafter called the Contractor) does hereby;

1. Assign, transfer, set over and release to the UNITED STATES OF AMERICA (hereinafter called the Government), all rights, title, and interest to all refunds, rebates, credits, or other amounts (including any interest thereon) arising out of the performance of the said contract, together with all of the rights of action accrued or which may hereafter accrue thereunder.

2. Agree to take whatever action may be necessary to effect prompt collection of all refunds, rebates, credits, or other amounts (including any interest thereon) due or which may become due, and to promptly forward to the Contracting Officer checks (made payable to the Treasurer of the United States) for any proceeds so collected. The reasonable costs of any such action to effect collection shall constitute allowable costs when approved by the Contracting Officer as stated in the said contract and may be applied to reduce any amounts otherwise payable to the Government under the terms hereof.

3. Agree to cooperate fully with the Government as to any claim or suit in connection with refunds, rebates, credits, or other amounts due (including any interest thereon); to execute any protest, pleading, applications, power of attorney or other papers in connection therewith; and to permit the Government to represent it at any hearing, trial, or other proceeding arising out of such claim or suit.

IN WITNESS THEREOF, this assignment has been executed this
_____ day of _____, 19____.

(Contractor)

BY: _____

TITLE: _____

6 FAM 200 Appendix E DOSAR SBA Contract Completion Format

(Reference DOSAR 604.804-70(d)(7))

U.S. Small Business Administration

Washington District Office

1111 18th Street, N.W., Room 625

Washington, D.C. 20417

[Contracting Activity Address]

Department of State Contract Number _____

SBA Contract Number _____

SBA Contractor Name _____

Total Dollar Value _____

Date Contract was Completed _____

Contracting Officer

6 FAM 200 Appendix E DOSAR Justification and Approval for Other than Full and Open Competition (Overseas Posts)

(Reference DOSAR 606.303-2)

I recommend that the Embassy [insert name] use other than full and open competition for the acquisition of [insert description of supplies or services]. The estimated cost is \$ [insert amount]. If this acquisition is to be made with only one source or a limited number of sources, negotiations will be conducted with [insert name of proposed source].

CERTIFICATION REQUIREMENTS

REQUIREMENTS OFFICE CERTIFICATION

I certify that the attached justification is accurate and contains complete data necessary to support the recommendation for other than full and open competition.

_____ Requirements Office	_____ Name	_____ Title
	_____ Signature	_____ Date

CONTRACTING OFFICER CERTIFICATION

I certify that this submission is accurate, and that it contains complete information necessary to enable other officials to make an informed recommendation for approval or disapproval.

_____ Name	_____ Contracting Officer Title
_____ Signature	_____ Date

NATIONAL SECURITY INFORMATION CERTIFICATION*

I certify that the national security concerns of the referenced acquisition(s) meet the criteria set forth in Executive Order 12356 and FAR 6.302-6.

_____ Office	_____ Name	_____ Title
	_____ Signature	_____ Date

* Only required when the justification is under the authority of FAR 6.302 and DOSAR 606.302-6, National Security.

Before requesting this procurement, check one of the statutory authorities for this procurement to be conducted under other than full and open competition procedures. Provide narrative justification associated with the respective stated authority in the space provided.

THE COMPETITION IN CONTRACTING ACT OF 1984

_____ 41 USC 253(c)(1) - Only one responsible source

This authority shall be used in preference to Public Interest. It shall not be used when any one of the other circumstances is applicable. (Explain what makes this contractor the only responsible source, i.e., Does this proposed contractor have facilities or equipment that are specialized and vital to the effort? Is the proposed contractor the only one that can meet critical schedules? Does the proposed contractor have prior experience of a highly specialized nature vital to the effort? Why won't any other product or service satisfy the need? Describe market survey and analysis leading to this conclusion.)

_____ 41 USC 253(c)(2) - Unusual and compelling urgency

This authority applies to those situations where (1) an unusual and compelling urgency precludes full and open competition, and (2) delay in award of contract would result in serious injury, financial or other, to the Government. (Explain why the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless it limited the number of sources.) Solicitation from as many potential sources as is practicable under the circumstances is required. This authority is allowed only to fulfill minimum requirements.

_____ 41 USC 253(c) - Industrial mobilization; or experimental, developmental, or research work

This authority applies when it is necessary to award the contract to a particular source or sources in order (1) to maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization, or (2) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. (Does the proposed contractor have facilities and equipment that are vital in the event of a national emergency? Is the proposed contract to maintain properly balanced sources of supply for meeting the requirements of acquisition of programs in the interest of industrial mobilization? Is the proposed contract to create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States or the United States and Canada?)

_____ 41 USC 253(c)(4) - International agreement

This authority may be used when the acquisition is to be reimbursed by a foreign country that requires the product to be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or when service are to be performed, or supplies are to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited. (Cite the international agreement or treaty between the U.S. and the foreign government or international organization. Provide the written directions of the foreign government reimbursing the agency for the cost of the acquisition.)

_____ 41 USC 253(c)(5) - Authorized or required by statute

This authority may be used when a statute expressly authorized that the acquisition be made through agency or from a specified source. (Cite the authority. Note: While this statutory exception includes the small disadvantaged business 8(a) set-aside program, a JOFOP is not required for this type of procurement.)

_____ 41 USC 253(c)(6) - National security

This authority may be used for any acquisition when disclosure of the Government's needs would compromise national security. It shall not be used merely because the acquisition is classified, or merely because access to classified matter

will be necessary to submit a proposal or perform the contract. (Explain why the disclosure of the Government's needs would compromise the national security or violate security requirements.) Prior written approval of INR/IL/CO is required for acquisition that involve sensitive compartmented information. Approval of DS/CIS/IST is required for all other acquisitions that involve national security information. Contact A/OPE/CA for additional information.

_____ 41 USC 253(c)(7) - Public interest

This authority may be used when none of the other authorities apply. Individual justification, Secretarial approval, and Congressional notification 30 days prior to award of the contract are required.

JUSTIFICATION

(Attach additional pages if necessary)

The justification must, at a minimum, include the following points (see FAR 6.303-2(a)):

- Explain the contractor's unique qualifications or the nature of the acquisition which requires the use of the authority cited.
- Describe the efforts made to ensure that offers are solicited from as many potential sources as is practicable (CBD synopsis, etc.). Analyze the results of the market survey and list the sources which expressed an interest in the solicitation.
- Include the Contracting Officer's determination that the anticipated cost to the Government will be fair and reasonable.
- Show other supporting facts, such as why competitive specifications have not been developed or made available, or provide an estimate of the costs that would be incurred or any other data/costs showing harm to the Government if full and open competition were used.
- If this is a repetitive procurement, explain actions to be taken or proposed to promote competition for future acquisitions.
- If competition is restricted on the basis of unusual and compelling urgency, explain how the Government will be seriously damaged unless the number of sources is limited.
- If competition is restricted on the basis of national security, explain how full and open competition would jeopardize national security.

ADDITIONAL APPROVALS

CONTRACTING OFFICER APPROVAL

(Required for actions over \$50,000 but not exceeding \$100,000)

_____	_____ <u>Contracting Officer</u> _____
Name	Title
_____	_____
Signature	Date

CONTRACTING ACTIVITY COMPETITION ADVOCATE APPROVAL

(Required for actions over \$100,000 but not exceeding \$1,000,000)

_____	_____ <u>Contracting Activity Competition Advocate</u> _____
Name	Title
_____	_____
Signature	Date

DEPARTMENTAL COMPETITION ADVOCATE APPROVAL

(Required for actions over \$1,000,000 but not exceeding \$10,000,000)

_____	_____ <u>Principal Officer</u> _____
Name	Title
_____	_____
Signature	Date
_____	_____ <u>Departmental Competition Advocate</u> _____
Name	Title
_____	_____
Signature	Date

PROCUREMENT EXECUTIVE APPROVAL

(Required for actions exceeding \$10,000,000)

_____ Name	_____ Procurement Executive Title
_____ Signature	_____ Date

Note:

1) Each review must be preceded by lower approval(s), e.g., over \$10 million, all approvals are required. If any approval required is not received, the procurement shall not proceed.

2) If competition has been restricted on the basis of national security, prior written approval of INR/IL/CO is required for acquisitions that involve sensitive compartmented information. Approval of DS/CIS/IST is required for all other acquisitions that involve national security information. Contact A/OPE/CA for further instructions.

6 FAM 200 Appendix E DOSAR Justification and Approval for Other than Full and Open Competition

(Domestic Contracting Activities) (Reference DOSAR 606.303-2)

I recommend that the Department of State use other than full and open competition for the acquisition of [insert description of supplies or services]. The estimated cost is \$ [insert amount]. If this acquisition is to be made with only one source or a limited number of sources, negotiations will be conducted with [insert name of proposed source].

CERTIFICATION REQUIREMENTS

REQUIREMENTS OFFICE CERTIFICATION

I certify that the attached justification is accurate and contains complete data necessary to support the recommendation for other than full and open competition.

_____ Requirements Office	_____ Name	_____ Title
	_____ Signature	_____ Date

CONTRACTING OFFICER CERTIFICATION

I certify that this submission is accurate, and that it contains complete information necessary to enable other officials to make an informed recommendation for approval or disapproval.

_____ Name	_____ Contracting Officer Title
_____ Signature	_____ Date

NATIONAL SECURITY INFORMATION CERTIFICATION*

I certify that the national security concerns of the referenced acquisition(s) meet the criteria set forth in Executive Order 12356 and FAR 6.302-6.

_____ Office	_____ Name	_____ Title
	_____ Signature	_____ Date

* Only required when the justification is under the authority of FAR 6.302 and DOSAR 606.302-6, National Security.

Before requesting this procurement, check one of the statutory authorities for this procurement to be conducted under other than full and open competition procedures. Provide narrative justification associated with the respective stated authority in the space provided.

THE COMPETITION IN CONTRACTING ACT OF 1984

_____ 41 USC 253(c)(1) - Only one responsible source

This authority shall be used in preference to Public Interest. It shall not be used when any one of the other circumstances is applicable. (Explain what makes this contractor the only responsible source, i.e., Does this proposed contractor have facilities or equipment that are specialized and vital to the effort? Is the proposed contractor the only one that can meet critical schedules? Does the proposed contractor have prior experience of a highly specialized nature vital to the effort? Why won't any other product or service satisfy the need? Describe market survey and analysis leading to this conclusion.)

_____ 41 USC 253(c)(2) - Unusual and compelling urgency

This authority applies to those situations where (1) an unusual and compelling urgency precludes full and open competition, and (2) delay in award of contract would result in serious injury, financial or other, to the Government. (Explain why the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless it limited the number of sources.) Solicitation from as many potential sources as is practicable under the circumstances is required. This authority is allowed only to fulfill minimum requirements.

_____ 41 USC 253(c) - Industrial mobilization; or experimental, developmental, or research work

This authority applies when it is necessary to award the contract to a particular source or sources in order (1) to maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization, or (2) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. (Does the proposed contractor have facilities and equipment that are vital in the event of a national emergency? Is the proposed contract to maintain properly balanced sources of supply for meeting the requirements of acquisition of programs in the interest of industrial mobilization? Is the proposed contract to create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States or the United States and Canada?)

_____ 41 USC 253(c)(4) - International agreement

This authority may be used when the acquisition is to be reimbursed by a foreign country that requires the product to be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or when service are to be performed, or supplies are to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited. (Cite the international agreement or treaty between the U.S. and the foreign government or international organization. Provide the written directions of the foreign government reimbursing the agency for the cost of the acquisition.)

_____ 41 USC 253(c)(5) - Authorized or required by statute

This authority may be used when a statute expressly authorized that the acquisition be made through agency or from a specified source. (Cite the authority. Note: While this statutory exception includes the small disadvantaged business 8(a) set-aside program, a JOFOP is not required for this type of procurement.)

_____ 41 USC 253(c)(6) - National security

This authority may be used for any acquisition when disclosure of the Government's needs would compromise national security. It shall not be used merely because the acquisition is classified, or merely because access to classified matter

will be necessary to submit a proposal or perform the contract. (Explain why the disclosure of the Government's needs would compromise the national security or violate security requirements.) Prior written approval of INR/IL/CO is required for acquisition that involve sensitive compartmented information. Approval of DS/CIS/IST is required for all other acquisitions that involve national security information. Contact A/OPE/CA for additional information.

_____ 41 USC 253(c)(7) - Public interest

This authority may be used when none of the other authorities apply. Individual justification, Secretarial approval, and Congressional notification 30 days prior to award of the contract are required.

JUSTIFICATION

(Attach additional pages if necessary)

The justification must, at a minimum, include the following points (see FAR 6.303-2(a)):

- Explain the contractor's unique qualifications or the nature of the acquisition which requires the use of the authority cited.
- Describe the efforts made to ensure that offers are solicited from as many potential sources as is practicable (CBD synopsis, etc.). Analyze the results of the market survey and list the sources which expressed an interest in the solicitation.
- Include the Contracting Officer's determination that the anticipated cost to the Government will be fair and reasonable.
- Show other supporting facts, such as why competitive specifications have not been developed or made available, or provide an estimate of the costs that would be incurred or any other data/costs showing harm to the Government if full and open competition were used.
- If this is a repetitive procurement, explain actions to be taken or proposed to promote competition for future acquisitions.
- If competition is restricted on the basis of unusual and compelling urgency, explain how the Government will be seriously damaged unless the number of sources is limited.
- If competition is restricted on the basis of national security, explain how full and open competition would jeopardize national security.

ADDITIONAL APPROVALS

CONTRACTING OFFICER APPROVAL

(Required for actions over \$50,000 but not exceeding \$100,000)

_____	_____ <u>Contracting Officer</u> _____
Name	Title
_____	_____
Signature	Date

CONTRACTING ACTIVITY COMPETITION ADVOCATE APPROVAL

(Required for actions over \$100,000 but not exceeding \$1,000,000)

_____	_____ <u>Contracting Activity Competition Advocate</u> _____
Name	Title
_____	_____
Signature	Date

HCA OR DEPARTMENTAL COMPETITION ADVOCATE APPROVAL

(Required for actions over \$1,000,000 but not exceeding \$10,000,000)

_____	_____ <u>HCA (GS-16 or above) or DOS Competition Advocate</u> _____
Name	Title
_____	_____
Signature	Date

PROCUREMENT EXECUTIVE APPROVAL

(Required for actions exceeding \$10,000,000)

_____ Name	_____ Procurement Executive Title
_____ Signature	_____ Date

Note:

1) Each review must be preceded by lower approval(s), e.g., over \$10 million, all approvals are required. If any approval required is not received, the procurement shall not proceed.

2) If competition has been restricted on the basis of national security, prior written approval of INR/IL/CO is required for acquisitions that involve sensitive compartmented information. Approval of DS/CIS/IST is required for all other acquisitions that involve national security information. Contact A/OPE/CA for further instructions.

**6 FAM 200 Appendix E DOSAR
Justification for Other than Full and Open
Competition**

41 U.S.C. 253(c)(1), FAR 6.302-1

(Reference DOSAR 606.370(b))

6 FAM 200 Appendix E DOSAR

Justification for Other than Full and Open Competition

41 U.S.C. 253(c)(1), FAR 6.302-1

(Reference DOSAR 606.370(b))

MOTOR VEHICLE STANDARDIZATION

In accordance with the Department of State Standardization Program and pursuant to the above statutory and regulatory requirements, the following facts and rationale are submitted in support of this exception to full and open competition for the purchase of motor vehicles:

JUSTIFICATION

The American Embassy *[insert name]* has a requirement for motor vehicles to carry out its official and support missions. The post fleet currently consists of *[insert number]* passenger and *[insert number]* nonpassenger *[insert manufacturer]* vehicles and there is a continuing need to replace vehicles which are unserviceable or uneconomical to maintain or operate.

The embassy had standardized on *[insert manufacturer]* vehicles since *[insert time]* and recommends the continuation of this standardization. *[Delete this phrase if this is not a continuation.]*

The practicality that standardization provides for cannibalization and interchangeability of parts between the same make of vehicles alleviates disruption to vital embassy functions.

Prohibitive costs are involved in stocking parts, tools and equipment necessary to service vehicles from more than one manufacturer. *[Elaborate and identify cost savings.]*

Maintenance procedures will be improved and training costs reduced by standardizing on only one manufacturer's vehicles. It is impossible for the post to hire and train mechanics capable of maintaining to any degree of acceptance a variety of vehicle makes. *[Elaborate and identify cost savings.]*

Potential for mechanical breakdowns will be minimized and long delays avoided effecting repairs and obtaining replacement parts. *[Elaborate on problems in this area.]*

6 FAM 200 Appendix E DOSAR

Justification for Other than Full and Open Competition, continued

41 U.S.C. 253(c)(1), FAR 6.302-1

(Reference DOSAR 606.370(b))

AUTHORITY, SCOPE, AND CONTRACTING ACTIVITY

The statutory authority for standardization of motor vehicles is 41 U.S.C. 253(c)(1).

[Insert agencies, e.g., USIA, AID, DEA, etc., which are covered by this standardization] have agreed to standardize on their post fleet under this authority.

The General Services Administration is the contracting activity for the purchase of motor vehicles under the Department of State's Standardization Program.

MANUFACTURER RECOMMENDED FOR STANDARDIZATION

The manufacturer recommended for standardization on passenger and nonpassenger vehicles is *[insert name.]*

STANDARDIZATION PERIOD

The standardization period is six years from the effective date of this justification. This Justification for Other than Full and Open Competition is subject to periodic reviews by the Standardization Review Board to determine if the standardization should be continued, revised, or canceled.

CERTIFICATIONS AND APPROVALS

As the posts official responsible for identifying this standardization requirement, I have reviewed the data provided in support of this Justification for Other than Full and Open Competition and certify that the data is accurate and complete.

_____	_____
Name	General Services Officer
	Title

_____	_____
Signature	Date

I certify that the information in this justification is accurate and complete.

_____	_____
Name	Post Competition Advocate
	Title

_____	_____
Signature	Date

6 FAM 200 Appendix E DOSAR Justification for Other than Full and Open Competition, continued

41 U.S.C. 253(c)(1), FAR 6.302-1

(Reference DOSAR 606.370(b))

CONCUR:

_____	_____
Name	DOS Competition Advocate Title
_____	_____
Signature	Date

APPROVE:

_____	_____
Name	Procurement Executive Title
_____	_____
Signature	Date

JOFOC Number: To be completed by A/OPE
Effective Date: To be completed by A/OPE
Expiration Date: To be completed by A/OPE

6 FAM 200 Appendix E DOSAR

Justification for Other than Full and Open Competition

41 U.S.C. 253(c)(1), FAR 6.302-1

(Reference DOSAR 606.370(b))

APPLIANCE STANDARDIZATION

In accordance with the Department of State Standardization Program and pursuant to the above statutory and regulatory requirements, the following facts and rationale are submitted in support of this exception to full and open competition for the purchase of household appliances:

JUSTIFICATION

The American Embassy *[insert name]* has a requirement to provide household appliances for Government owned and leased properties. There is a continuing need to replace and/or repair appliances which are unserviceable or uneconomical to maintain or operate.

The embassy has standardized on *[insert manufacturer]* major household appliances since *[insert time]* and recommends the continuation of this standardization. *[Delete this phrase if this is not a continuation.]*

The practicality that standardization provides for cannibalization and interchangeability of parts between the same make of appliance alleviates disruption to post operations.

Prohibitive costs are involved in stocking parts, tools and equipment necessary to service appliances from more than one manufacturer. *[Elaborate and identify cost savings.]* (Example: Post has an existing inventory of spare parts for these appliances, currently estimated at \$ _____. Without authorization to standardize on household appliances, these inventories and spare parts already in the supply system will be rendered obsolete. Several makes of appliances would require separate stocks of spare parts which, in turn, require additional bins, storage, and clerical and administrative expenses.)

Maintenance procedures will be improved and training costs reduced by standardizing on only one brand of household appliance. It is not practical for the post to hire and train maintenance personnel capable of maintaining to any degree of acceptance several makes of household appliances. *[Elaborate and identify cost savings.]*

Potential for mechanical breakdowns will be minimized and long delays avoided effecting repairs and obtaining replacement parts. *[Elaborate on problems in this area.]* (Example: Regularly scheduled preventive maintenance will be possible if the current stock of spare parts is maintained, thereby reducing appliance down-time.)

Although mission capability is the post's overriding concern to standardize on these appliances, the benefits and/or cost savings anticipated from this standardization will equal or exceed the savings that could be expected from full and open competition with different manufacturers.

6 FAM 200 Appendix E DOSAR

Justification for Other than Full and Open Competition, continued

AUTHORITY, SCOPE, AND CONTRACTING ACTIVITY

The statutory authority for standardization of household appliances is 41 U.S.C. 253(c)(1).

This authority to standardize does not waive the responsibility of the contracting officer to compete the purchase of the household appliances under full and open competition with all responsible vendors capable of providing the brand name appliances on which the post has standardized.

MANUFACTURER RECOMMENDED FOR STANDARDIZATION

The manufacturer recommended for standardization on household appliances is *[insert name.]*

STANDARDIZATION PERIOD

The standardization period is six years from the effective date of this justification. This Justification for Other than Full and Open Competition is subject to periodic reviews by the Standardization Review Board to determine if the standardization should be continued, revised, or canceled.

CERTIFICATIONS AND APPROVALS

As the post official responsible for identifying this standardization requirement, I have reviewed the data provided in support of this Justification for Other than Full and Open Competition and certify that the data is accurate and complete.

_____	_____
Name	General Services Officer Title

_____	_____
Signature	Date

I certify that the information in this justification is accurate and complete.

_____	_____
Name	Post Competition Advocate Title

_____	_____
Signature	Date

6 FAM 200 Appendix E DOSAR

Justification for Other than Full and Open

Competition, continued

CONCUR:

_____	_____
Name	DOS Competition Advocate Title
_____	_____
Signature	Date

APPROVE:

_____	_____
Name	Procurement Executive Title
_____	_____
Signature	Date

JOFOC Number: To be completed by A/OPE

Effective Date: To be completed by A/OPE

Expiration Date: To be completed by A/OPE

6 FAM 200 Appendix E DOSAR Authorization to Issue Non-Metric Solicitation

(Reference DOSAR 610.002-70(d)(3)(ii))

Solicitation Number:_____

Description:

1. Justification: (Explain why the metric system of measurement was not used in developing the specification/work statement for the subject solicitation.)

2. What initiatives are being taken to ensure the use of the metric system of measurements in future specifications/work statements of this nature?

3. When is it anticipated that “hard metric” can be used in specifications/work statements for future requirements of this nature?

6 FAM 200 Appendix E DOSAR Authorization to Issue Non-Metric Solicitation, continued

(Reference DOSAR 610.002-70(d)(3)(ii))

4. Comments: (Comment on any particular problems that you have encountered or anticipate in implementing the metric system and/or concerns expressed by contractors that you feel warrant the attention of the Metrication Operating Committee of the Interagency Council on Metric Policy):

Concurrence (Requirements Office):

Signature

Typed Name & Office Symbol

Title

Date

Approval:

Signature

Typed Name & Office Symbol

Contracting Officer

Date

cc: A/OPE/CS (SA-6, Suite 603)
Contract File

6 FAM 200 Appendix E DOSAR

Draft Policy to be Issued by the CFO

(Reference DOSAR 617.500)

INTERAGENCY ACQUISITION AGREEMENTS UNDER AUTHORITIES OTHER THAN THE ECONOMY ACT

1. Background and Purpose. Interagency acquisition agreements (IAAs) are a means for a federal agency to further its missions through collaboration with and by taking advantage of another agency's expertise. In order to maintain proper accounting of Federal funds, as provided in agency authorizations and appropriations, statutory authority is needed to effect an IAA. There are two broad groups of interagency agreements: a) IAAs authorized by specific statute, and b) IAAs authorized by the Economy Act.

On September 15, 1993, the Procurement Executive issued Procurement Policy Directive No. 37, "Interagency Acquisition Agreements Under the Economy Act", for IAAs issued under that authority. This policy, therefore, addresses the IAAs awarded using authorities other than the Economy Act, e.g., the State Department Basic Authorities Act, the Omnibus Diplomatic Security and Antiterrorism Act, the Foreign Assistance Act, and the Federal Property and Administrative Services Act (including the section known as the Brooks Act).

2. Definitions.

"Interagency acquisition agreement (IAA)" means a written transaction under which a Federal agency obtains personal property, real property, or services from or provides to another Federal agency. IAAs usually involve a transfer of funds between the two Federal agencies.

"Requesting agency" means the Federal agency obtaining personal property, real property, or services from another Federal agency through an IAA.

"Servicing agency" means the Federal agency providing personal property, real property, or services to another Federal agency through an IAA. The servicing agency can meet the requesting agency's needs directly or through issuance of a contract, grant, or cooperative agreement.

3. Scope.

The policy stated herein applies to all Department of State IAAs issued under authorities other than the Economy Act. This policy provides lines of authority and responsibility for IAA management issues, including use, planning, delegation of authority, execution, and administration. It specifically identifies the responsibilities of Department organizational elements and personnel in obtaining or providing supplies or services under an IAA.

The following transactions do not fall within the scope of this policy:

G Procurement from mandatory sources, including supplies or services obtained from other Federal agencies as authorized or required by law, e.g., excess and surplus stocks from other government agencies, General Services Administration (GSA) Federal Supply Schedules, GSA Federal Information Processing resources schedules, GSA Customer Supply Centers, GSA Stock Catalogs, GSA Federal Supply Service Consolidated Purchase Programs, Federal Prison Industries, Inc., National Industries for the Blind, and the Government Printing Office (collectively, these priority sources are established by law under which an interagency order is placed, usually by a warranted contracting officer or purchasing agent, with the specified agency or organization);

G Contracts, awarded by warranted contracting officers, with the Small Business Administration pursuant to Section 8(a) of the Small Business Act;

G Agreements that do not provide for a subsequent transfer of funds to or from other Federal agencies and do not affect employment ceilings or positions of the Department; and

G IAAs established pursuant to the Economy Act. Procurement Policy Directive No. 37 contains the policies and procedures governing those IAAs.

4. Policy.

a. ***It is the Department's policy to use IAAs in a manner that promotes Departmental missions, programs, and responsibilities, is consistent with statutory and regulatory requirements, and conforms with relevant financial management standards.***

b. Key principles guiding the management of IAAs.

(1) All IAAs are not the same. ***A clear distinction can and should be drawn between IAAs under the Economy Act and IAAs issued pursuant to other statutory authority.*** This distinction is discussed in detail in the GAO's Principles of Federal Appropriations Law (1982), specifically with respect to obligation of appropriations.

(2) The process for executing an IAA depends on the statutory authority for the IAA. Only IAAs issued pursuant to the Economy Act are governed by the Federal Acquisition Regulation (FAR).

(3) All IAAs, regardless of statutory basis, require managerial control and monitoring.

c. Under an IAA, an agency uses any resources transferred to it in accordance with its authorities and procedures, including its acquisition policies, regulations, and procedures, when appropriate.

(1) Funds so transferred are, as a matter of law, subject to disposition by the other agency because the obligation is recorded when the IAA is executed. Where the IAA is based on statutory authority other than the Economy Act, the obligation remains payable in full from the appropriation initially charged, regardless of when performance occurs, but subject to any restrictions in the legislation authorizing the IAA.

(2) Any assets acquired with the transferred funds are in the custody of the agency that received the transferred funds.

d. Proper planning and coordination are essential when using an IAA, specifically:

(1) All IAAs shall be identified and planned by the program or requirements office with sufficient time to permit orderly completion of reviews and supporting documentation;

(2) Any IAA requiring a commitment of Department resources, whether the Department is the requesting or servicing agency, shall be identified and planned in accordance with the Department's program planning and budget cycles;

(3) Any IAA including a transfer of funds into the Department shall be cleared by the budget office of the program or requirement office, in consultation with the Bureau of Finance and Management Policy (FMP); and

(4) Any IAA affecting Department employment or ceiling positions shall be cleared by the personnel office of the program or requirements office, in consultation with the Bureau of Finance and Management Policy (FMP) and the Bureau of Personnel (PER).

5. IAA Review, Authorities, and Responsibilities.

a. Department program or requirements offices are responsible for identifying and justifying IAA needs in annual planning documents. When both the Department and the other agency are contributing resources, personal property, real property, or services, the program or requirements office shall determine which agency is the requesting agency based on the preponderant need, i.e., the overall, underlying requirement.

b. The Assistant Legal Adviser for Buildings and Acquisition (L/BA) shall review and clear all IAAs prior to their execution.

c. Department deputy assistant secretaries, executive directors, and senior program managers are authorized to execute IAAs.

6. Procedures Governing the Preparation, Execution, Distribution, and Administration of IAAs. In initiating and managing an IAA, the following procedures will ensure compliance with legal and administrative requirements:

a. The program or requirements office shall identify all IAA requirements in its resource plans, including any or all of the following: program plan, budget plan, and financial plan. Consultation with L/BA to establish the statutory authority (specific statute or Economy Act) for the IAA may be sought at this time.

b. An officer in the program or requirements office shall be appointed to manage each IAA; specific duties, consistent with this policy, shall be provided to the IAA manager.

c. The IAA manager shall coordinate the requirement within the bureau, and with FMP, and, when appropriate, PER.

d. When the Department is the servicing agency for the IAA, and if the IAA manager believes the Department may need to use contractor support to meet its obligations under the IAA, then the IAA manager must consult with the appropriate contracting activity before the IAA is signed.

e. Preparing the IAA.

(1) The IAA manager shall prepare the IAA, usually in consultation with a representative of the other agency. Consultations with appropriate Department offices should occur during this process.

(2) Department of State form DS-1921, Award/Modification of Interagency Acquisition Agreement, shall be used for all IAAs where the Department is the requesting agency. It should be used for IAAs where the Department is the servicing agency if the requesting agency does not have a similar form that provides the same information. The IAA manager usually is identified on the DS-1921 as the Department's point of contact (POC).

(3) The IAA shall also include a description of the property or services required; a not-to-exceed price; funds citation; delivery requirements; payment provisions; a procedure for resolving disagreements, including use of a third-party forum (consent of the third party should be obtained in writing); and, audit provisions. Certification of funds availability is obtained through FMP. Payment(s) may be made in advance or on a reimbursable basis.

(4) Unless L/BA previously cleared it, the IAA must be submitted to L/BA for clearance.

f. After obtaining all necessary clearances, the IAA manager shall submit the IAA to the appropriate authority for signature. The requesting agency usually signs the IAA first and then submits it to the servicing agency for its execution.

g. All modifications to IAAs are processed, cleared, and executed similarly.

h. Normally, there is only one "original" copy of the IAA or modification, and that copy shall be forwarded to the paying office. Each additional signed or reproduced copy of the signed IAA or modification intended to have the same force and effect as the original shall be stamped or marked "Duplicate Original." The IAA manager shall maintain a distribution list of those Department offices that shall receive a copy of each IAA or modification. Any changes to the list shall be maintained by the IAA manager as they occur.

7. Administration of IAAs. The IAA manager is responsible for administering the IAA, including quality control, performance, monitoring and enforcement, and evaluation. The IAA manager is not, however, authorized to change the DOS resource commitment(s) expressed in the IAA. Only those individuals identified in paragraph 5c may execute any such modifications to an IAA.

8. Effective Date. This policy is effective on the signature date.

Date_____

Richard L. Greene
Chief Financial Officer

6 FAM 200 Appendix E DOSAR

Model Determination and Findings

(Reference DOSAR 617.503)

Model Determination and Findings for an Interagency
Acquisition Agreement Under the Economy Act

Authority

The Economy Act (31 U.S.C. 1535 et seq.);
Section 17.502 of the Federal Acquisition Regulation;
Section 617.502 of the Department of State Acquisition Regulation

Findings

I have reviewed the requirement for [description of supplies or services to be obtained] that [name of program or requirements office] intends to order or has ordered with [name of servicing agency] as an interagency agreement under the Economy Act. My review produced the following findings:

1. Legal authority for the acquisition otherwise exists; that is, the requirement could have been met through a procurement by Department of State under normal circumstances.
2. The action does not conflict with any other agency's authority or responsibility, including but not limited to the required sources of supply or services prescribed in FAR Part 8.
3. The program or requirements office has established that the requirement is a bona-fide need of the Department of State for which purpose funds are available. All approvals or authorizations required by Department policy have been obtained and received. The costs to the Department for the requirement, including administrative fees charged by [name of servicing agency], appear to be reasonable. This finding has been verified by the performance of cost or price analysis.
4. The [name of servicing agency] is able to provide or get by contract the supplies or services required.

[Include the following if applicable:] 5. This interagency acquisition involves the use of a commercial or industrial activity operated by the servicing agency, and it conforms with the requirements of FAR Subpart 7.3, Contractor Versus Government Performance.

[Include the following if applicable:] 6. This interagency acquisition involves the use of a Federally Funded Research and development Center, and this action is allowed under the terms of the FFRDC's sponsoring agreement. The work requested under this interagency will not place the FFRDC in direct competition with domestic private industry.

Determination

In accordance with the above authorities and based on the above findings, I hereby determine that the supplies or services required cannot be provided or performed as conveniently or cheaply by a commercial enterprise under a Department of State contract. Therefore, it is in the Government's interest to place an order for [summarize the requirement] with [name of servicing agency] through the issuance of an Economy Act interagency acquisition agreement.

Date

Name and Title

6 FAM 200 Appendix E DOSAR

13 CFR 124.308(g)

(Reference DOSAR 619.870(b))

124.308 Procedures for obtaining and accepting procurements for the 8(a) program.

* * * * *

(g) *Formal technical evaluations.* SBA will not authorize formal technical evaluations for sole source 8(a) contracts. If a procuring agency requires the performance of a formal technical evaluation among more than one 8(a) concern, the procuring agency must request that the requirement be a competitive 8(a). The procuring agency may request a formal two-step procurement process pursuant to section 14.5 of the FAR, 48 CFR subpart 14.5, or a standard negotiated competitive procurement. ***Agencies may, however, conduct informal assessments of several 8(a) firms' capabilities to perform a specific requirement, provided that the statement of work for the requirement is not released to any of the participating 8(a) firms.***

6 FAM 200 Appendix E DOSAR

Justification for Procuring EPA-Designated Items that do not Contain Recovered Materials

(Reference DOSAR 623.475(b))

1. The [insert requirements office name] has a requirement for the following EPA-designated item [check appropriate box]:

- | | |
|--|---|
| <input type="checkbox"/> Cement and concrete | <input type="checkbox"/> Lubricating oils |
| <input type="checkbox"/> Paper and paper products | <input type="checkbox"/> Retread tires |
| <input type="checkbox"/> Building insulation products | |
| <input type="checkbox"/> Other EPA-designated item (describe): _____ | |

2. This office has determined that it cannot purchase the item pursuant to the EPA guideline using recovered materials because [check appropriate box]:

- | |
|---|
| <input type="checkbox"/> The price of the item with recovered materials is unreasonable. |
| <input type="checkbox"/> The requirement for recovered materials will result in inadequate competition or will adversely affect small business or the Department's metrication program. |
| <input type="checkbox"/> Obtaining the item with recovered materials will result in unusual and unreasonable delays. |
| <input type="checkbox"/> The item as produced with recovered materials does not meet all reasonable performance specifications. |

3. Provide information, documentation, etc. to substantiate the reason(s) indicated above. Attach additional information, documentation as necessary.

6 FAM 200 Appendix E DOSAR Justification for Procuring EPA-Designated Items that do not Contain Recovered Materials, continued

(Reference DOSAR 623.475(b))

4. What initiatives are being taken to ensure the use of recovered materials in future specifications for EPA-designated items?

Requirements Office

Signature

Typed Name & Office Symbol

Title

Date

Contracting Officer Approval

Signature

Typed Name

Title

Date

6 FAM 200 Appendix E DOSAR ADR/Claim Acknowledgement Letter

(Reference DOSAR 633.214-70(b)(3))

(Immediately upon receipt of a claim, the Contracting Officer should send this letter acknowledging receipt of the claim and soliciting the contractor's view on submitting this claim for ADR.)

Dear Claimant:

This acknowledges the Department's receipt of your claim on [date] under contract [number] for [describe]. We are commencing our review and will be in touch as soon as possible. If you have any questions in the meantime, please contact me on [number].

The Department is actively interested in pursuing alternative means of dispute resolution (ADR). In fact, the Government's policy and Federal law establish ADR as the preferred way to resolve disputes. Briefly put, ADR is a variety of dispute resolution techniques designed to avoid the cost and time expense of litigation. Examples of ADR techniques include structured settlement negotiations, mediation, mini-trials, and arbitration, which may involve the use of a third-party to assist in resolving agreements. We believe that ADR is of great assistance in mutually resolving disputes and avoiding protracted formal appeals.

ADR cannot be used unless both the Government and the contract agree to its use. If we use ADR and it proves unsuccessful in resolving your claim, you will still retain your rights under the Contract Disputes Act and may appeal the Contracting Officer's decision to the Armed Services Board of Contract Appeals or the U.S. Court of Federal Claims.

As part of my review, I will consider your claim for ADR. If you would like more information on ADR techniques or if you think ADR would be appropriate for this claim, please let me know.

I look forward to working with you on this matter.

Sincerely,

Contracting Officer

6 FAM 200 Appendix E DOSAR A/OPE Memo on Delegation of Personal Services Contracting Authority for U.S. Citizens and Foreign Nationals at Overseas Posts

(Reference DOSAR 637.104-70(a))

United States Department of State
Washington, D.C. 20520

Office of Procurement Executive
Room 603, State Annex Number 6

September 8, 1993

MEMORANDUM

TO: AF/EX - Mr. William J. Hudson
ARA/EX - Mr. James A. Weiner
EAP/EX - Mr. Bruce Clark
EUR/EX - Mr. Warren P. Nixon
NEA/EX - Mr. Ralph Frank
IO/EX - Mr. Kevin E. Carrol

FROM: A/OPE - Lloyd W. Pratsch, Procurement Executive

SUBJECT: Delegation of Personal Services Contracting Authority for
U.S. Citizens and Foreign Nationals at Overseas Posts

Summary:

The Department utilizes personal services contracts (PSCs) to employ individuals at posts overseas. The Federal Acquisition Regulation (FAR) requires specific statutory authority to enter into PSCs; the Department's authority is contained in the Basic Authorities Act. The Foreign Affairs Manual (FAM) authorizes the Procurement Executive to delegate to the Post authority for each individual PSC or class of PSC. The purpose of this memorandum is to delegate to the Executive Directors authority for PSC contracting or for certain classes of PSCs, with power of redelegation. This delegation is made to improve the administrative efficiency within the Department for the management of PSCs.

End summary.

FAR 37.104(b) states agencies shall not award personal service contracts unless specifically authorized by statute. The Department's authority to utilize PSCs is contained in 22 U.S.C. 2669(c)2. Personal Service Contracts must be awarded by warranted contracting officers in accordance with the FAR and the Department of State Acquisition Regulation (DOSAR).

It is the policy of the Department to prohibit the use of personal services contractors for the performance of inherently governmental functions. This policy is addressed in Office of Management and Budget Policy Letter 92-1, which is Attachment A. Executive Directors shall confirm, based on the certification from post, that a particular PSC position will not perform inherently government functions. Copies of the certification will be placed in each PSC file. The Executive Director, by delegating the authority for a particular PSC is also making a positive affirmation that there is no transfer of official responsibility to a Government contractor. A/OPE should be contacted on questions that may arise on this subject.

Initial requests for PSC authority for a specific function shall follow the format as described in the Department of State Foreign National Person Services Contracts Handbook developed by FSI (PSC Handbook). The request format will be the same for both foreign nationals, third country nationals and U.S. citizens.

The guidance contained in 3 FAM 910 and the PSC handbook shall be followed for PSCs with Foreign Nationals and Third Country Nationals. The guidance contained in 3 FAM 170 shall be followed for PSCs with U.S. citizens.

PER/ER and PER/FSN shall remain in the loop in order to monitor the administrative personnel process and to ensure regulatory compliance. For those positions within the Health Group Series, M/DGP/MED shall be included in the process.

I hereby delegate to Bureau Executive Directors the authority to approve Personal Services Contracts (PSC) subject to the following conditions:

- (1) This authority applies only to posts in your geographic region, or in the case of IO, to missions to international organizations.
- (2) This authority may be delegated only to your Deputy Director in your absence. No further redelegations are authorized.
- (3) This authority is for PSCs with U.S. Citizens at the FP-09 equivalent level or below in Procedural Clerical, Substantive Clerical, and Technical Support as defined in the Work Evaluation Guidelines in 3 FAM 170 appendix D. This authority is limited to the functions listed in Appendix B. Requests for delegation of American PSC authority at higher work and class levels must continue to be referred to A/OPE through PER/ER/OEP.

(4) This authority is for PSCs with foreign nationals and third country nationals at the FSN-6 level or below, or as specified on the attached list. The authority is limited to the functions listed on Attachment B. The term "function" means the same as the term "series" under the FSN Position Classification System.

(5) PSC authority is limited to Department of State employees including employees who provide overseas administrative support services to agencies serviced by State under the FAAS System. This delegation does not apply to positions funded by other agencies at Post.

If this office can be of further assistance in this matter please contact us.

Attachments:

A: OMB Policy Letter 92-1

B: Authorized Functions for Foreign Nationals

CC:

PER/FSN - Mr. Clarence E. Pegues, Jr.

PER/ER - Ms. Julee Brand

M/DGP/MED/EX - Dr. Lawrence A. Biro

L/BA - Mr. Dennis Gallagher

ATTACHMENT B

AUTHORIZED FUNCTIONS FOR FOREIGN NATIONAL EMPLOYEES

Function	Series
Visa	FSN 1415
Gardening	FSN 1310
Labor/Custodial	FSN 1305
Trades and Crafts	FSN 1210
Maintenance Management	FSN 1205
Motor Vehicle Maintenance	FSN 1020
Chauffeur/Motor Vehicle Operator	FSN 1015
Dispatcher	FSN 1010
Travel	FSN 910
Shipment	FSN 905
Supply (FSN-5 and Below only)	FSN 805
Telephone Operator	FSN 605
Personnel	FSN 305
Translator	FSN 210
Mail/File	FSN 130
Receptionist	FSN 125
Secretary	FSN 120
Clerk Typist	FSN 110
General Clerical/Administrative	FSN 105
Voucher Examiner	FSN 420
Payroll	FSN 425
Nurse	FSN 510

Medical Technician	FSN 515
Teletype Operator	FSN 610
Communications Technical (State)	FSN 615
Procurement (<i>FSN-4 and Below only</i>)	FSN 810
Utilities Equipment Operation	FSN 1215
Passport and Citizenship	FSN 1410
Special Consular Services	FSN 1420
Federal Benefits (<i>FSN-5 and Below</i>)	FSN 1425
Consular Investigations (<i>FSN-5 and Below Only</i>)	FSN 1430
Computer Operator	FSN 1815
Data Input	FSN 1820
Computer Support	FSN 1825

A/OPE: 9/93

6 FAM 200 Appendix E DOSAR Non-FSI Sources for COR Training

(Reference DOSAR 642.270(d))

(call numbers below or contact A/OPE for latest course descriptions)

GSA Interagency Training Center (703) 557-0986

Management Concepts, Inc. (703) 790-9595

USDA Graduate School (202) 447-7124

Educational Services Institute (703) 578-8800

George Mason University/The Federal Market Group (703) 847-0817

Negotiations International (301) 585-1842

National Defense University, IRM College (202) 433-2011

Houseman & Associates (703) 690-4105

U.S. Army Logistics Management College (804) 734-4220

6 FAM 200 Appendix E DOSAR COR Nomination Format

(Reference DOSAR 642.270(f)(1))

MEMORANDUM

TO: , Contracting Officer

FROM: , [one level above prospective COR]

SUBJECT: COR Nomination

I hereby nominate [name] as COR for [describe contract].

This request is based on the employee's completion of the following training and experience:

1. TRAINING QUALIFICATIONS

<u>Course Title</u>	<u>Date Completed</u>
---------------------	-----------------------

2. TECHNICAL QUALIFICATIONS/EXPERIENCE

<u>Office</u>	<u>Dates</u>	<u>Types of Work Performed or Contracts Administered</u>
---------------	--------------	--

3. OTHER CONSIDERATIONS

[describe]

6 FAM 200 Appendix E DOSAR

Sample Delegation Memo - Generic

(Reference DOSAR 642.270(f)(2))

MEMORANDUM

TO: [CONTRACTING OFFICER'S REPRESENTATIVE]

FROM: [CONTRACTING OFFICER]

SUBJECT: Delegation of Authority Under Contract No. [NUMBER]

Pursuant to the authority granted to me as a Contracting Officer under the Federal Acquisition Regulation (FAR), you are hereby designated the Contracting Officer's Representative with respect to technical matters within the scope of Contract Number [NUMBER] which has been issued to [CONTRACTOR].

Please note that this delegation does not include the right to (1) modify or alter the contract or any of its terms and conditions; (2) waive the Government's rights with regard to the Contractor's compliance with the specifications, price, delivery, or any other terms or conditions; or (3) approve any actions which would result in additional charges to the Government. All such actions must be made in writing by the cognizant Contracting Officer.

This delegation authorizes you to perform the tasks listed below to the extent required by the terms of the contract.

1. Coordinate with the contractor on all technical matters which may arise in the administration of the contract.
2. Give procedural clarification as to the meaning of the specifications including inspection, testing, and acceptance procedures.
3. Monitor and inspect the Contractor's progress and performance to assure compliance with the contract terms and conditions.
4. Receive deliverables (supplies, services, and/or reports) on behalf of the Government.
5. Verify satisfactory delivery of contract items and prepare receiving reports and/or approve invoices for payment.
6. If progress payments are approved under this contract, verify efficient and satisfactory performance of work by the Contractor and authorize progress payments.

7. If this contract contains a warranty or maintenance clause, notify the Contracting Officer and Contractor of any deficiencies in workmanship or materials immediately and monitor response and repair times as stipulated in the contract.

In exercise of this authority as Contracting Officer's Representative, you are responsible for:

1. Performing the specific duties assigned herein.
 - a. With regard to monitoring and inspecting the Contractor's progress and performance, you must promptly notify the Contracting Officer in writing of any noncompliance or deviation in performance or failure to make progress.
 - b. With regard to preparing receiving reports and/or approving invoices for payment, you must execute these documents promptly and transmit them to the designated payments office within five calendar days. Delays in processing receiving reports and/or invoices may cause late payment by the Government and the incurrence of interest charges.
2. Maintaining constant cognizance with respect to technical compliance with contract terms on the part of the Contractor.
3. Knowing and understanding the terms and provisions of the contract.
4. Knowing the scope and limitations of your authority.
5. Using good judgement, skill, and reasonable care in the exercise of your authority.
6. Protecting privileged and sensitive procurement information.
7. If appropriate, periodically visiting the Contractor's plant to check on the following aspects and informing the Contracting Officer of your findings through submission of a trip report prepared in accordance with your office's internal procedures:
 - a. Actual performance versus scheduled performance.
 - b. Action needed, if any, to restore contract schedule.
8. If applicable, implementing the Government Furnished Property (GFP) provisions of the contract. COR responsibilities with regard to GFP include:
 - a. Preparing itemized list of GFP showing serial numbers, if any, and approximate value of each item;
 - b. Providing the Contracting Officer with the GFP list and Contractor receipts for GFP;
 - c. Ensuring that delivery of GFP to the Contractor is made in accordance with the contract; and

d. Inspecting each unit of GFP upon its return from the Contractor and notifying the Contracting Officer of such return and/or any deficiencies.

9. Performing all acceptance tests required by the contract in accordance with the time limitation stated therein. The results of the acceptance tests must be forwarded to the Contracting Officer.

10. Upon completion of the contract, preparing a statement of satisfactory performance or a statement of any deviations, shortages, or deficiencies. In addition to this written statement, the COR must submit a completed Form DS 1771 - Contractor Evaluation Statement (attached) to the Contracting Officer.

If you believe the delivered supplies or services should be rejected, the Contracting Officer should be notified immediately and you should follow up in writing with a brief memorandum documenting the reasons for rejection.

If questions arise which are not clearly answered in the contract (including the specifications) or if disputes with the Contractor occur, a written report to the Contracting Officer shall be prepared setting forth the problem encountered.

This delegation of authority is limited to the referenced contract and is not subject to redelegation by you. The delegation may be terminated at any time by written notice from the Contracting Officer if you are transferred from your present position or are prevented from continuing as COR for the referenced contract.

Receipt Acknowledged:

Date:_____

Attachments:

1. Contract Number
2. DS 1771

*Please execute and return the original for the contract file, retaining one copy for your file.

- cc: 1. Contractor
2. Finance Office
3. Contract File

6 FAM 200 Appendix E DOSAR Sample Delegation Memo for PSC Contracts

(Reference DOSAR 642.270(f)(2))

DATE:

MEMORANDUM

TO: [ORGANIZATION] - [NAME]

FROM: [ORGANIZATION] - [NAME], Contracting Officer

SUBJECT: Delegation of Authority and Responsibility of Contracting
Officer's Representative (COR)

Pursuant to the authority granted to me as a Contracting Officer under the Federal Acquisition Regulation, you are hereby designated as the Contracting Officer's Representative for [CONTRACT NO. _____] awarded to [NAME] for services as a [_____].

Under this delegation you are hereby authorized to coordinate with the contractor on all technical matters which may arise in the administration of this contract; give technical clarification as to the meaning of the specifications including inspection, testing, and acceptance procedures; inspect the contractor's progress to assure compliance with the contract terms and conditions; perform such functions as may be necessary to accept the products or services for the Government, including preparation of receiving reports, and authorize progress payments, when appropriate. However, you are not authorized to alter or modify the contract nor are you authorized to waive the Department of State's rights as to specifications, price, delivery, terms, provisions, and conditions. All such changes must be authorized in writing by the Contracting Officer.

If questions arise which are not clearly answered in the contract (including the specifications) or if disputes with the contractor occur, you are to submit a written report to the Contracting Officer setting forth the problem being encountered.

The COR must monitor the contractor's performance to insure that there are no deviations from contract requirements; and, in the event that deviations do occur, furnish prompt written notice of such deviations to the Contracting Officer and the contractor.

The Timekeeper for your division should (1) observe and verify the Contractor's attendance during scheduled hours of work and record any absence, (2) as appropriate, obtain signed certification from the Contractor for annual leave, sick leave, overtime, and compensatory time, (3) complete the Contractor's time card for each pay period, (4) obtain the Contractor's initials on the time card for any leave, overtime, and/or compensatory time recorded during the pay period, (5) obtain your signature of approval on the time card at the close of each pay period in your capacity as COR, (6) forward each approved time card to [NAME] in [for FBO: A/FBO/RMO/F, SA-6, 11th floor, for entry into the Consolidated American Payroll Processing System (CAPPS)].

Upon completion of the contractor's work, you shall perform an inspection and bring to the attention of the Contracting Officer, in writing, any deviations from contract requirements, such as shortages or deficiencies. If there are no deficiencies, then a statement of satisfactory performance is appropriate and the goods or services delivered should be accepted. After the contractor has completed performance for the term under the contract or if the contract is terminated, you must complete and forward to the Contracting Officer a Contractor Evaluation Statement to facilitate close out of the contract. A copy of the form is attached. If the term of the contract is extended, you must prepare a written evaluation of the contractor's performance annually and at contract close out.

This Delegation of Authority is limited to the above referenced contract, is not subject to redelegation by you, and may be terminated at any time by written notice to you from the Contracting Officer.

Please acknowledge receipt and acceptance of this delegation. After you have signed the ORIGINAL and one copy of the delegation memorandum, retain the ORIGINAL memorandum along with the executed contract, and return the copy of the fully signed/dated memorandum to [C. O. NAME], [ORGANIZATION].

Attachments:

Copy of Contract No.

Copy of Performance Evaluation Form

Receipt Acknowledged:

COR

Date

cc: Contractor - [NAME]

cc: Contract File - [NUMBER]

cc: RMO/F (for FBO)

6 FAM Appendix E DOSAR Sample Delegation Memo for Construction Contracts

(Reference DOSAR 642.270(f)(2))

DATE:

MEMORANDUM

TO: [ORGANIZATION] - [TITLE]

FROM: [ORGANIZATION] - [NAME], Contracting Officer

SUBJECT: Delegation of Contracting Officer's Representative (COR),
Contract No. [____], [POST]

Pursuant to the authority granted me as a Contracting Officer under the Federal Acquisition Regulation, you are hereby appointed the Contracting Officer's Representative for [____] under Contract No. _____ with [CONTRACTOR'S NAME, ADDRESS].

You, as the COR, will insure that the materials furnished and the work performed are in accordance with the contract requirements and that the work under the contract progresses on schedule. Furthermore, you are to perform monitoring and administrative activities to insure the successful completion of contract requirements. The following duties and activities are considered basic responsibilities of the COR:

1. Become thoroughly familiar with the site, contract plans, specifications, and all details of the construction.
2. Inspect all materials, equipment furnished, and work performed for compliance with contract drawings, specifications, and approved shop drawings.

3. Maintain a daily log for all required field records. Record pertinent information in the diary relative to work progress, weather and ground conditions, work accomplished, the number of contractor employees on the job by trade, construction difficulties, safety violations, delays (extent and the cause), materials and work rejected and the reason, a complete labor and material record in connection with any item of extra work or any other work for which there is any reason to believe the Contractor might file a claim for extra money and/or time, including telephone conversations, and instructions to the Contractor, visitors on the site, and any instructions or comments from them. In addition, record information regarding acts of the Contractor or Contractor's agents which result in damage to Government furnished materials or to the property of others.
4. Review and approve shop drawings, samples, progress, and/or CPM network.
5. Keep records, as property custodian, of all Government property turned over to the Contractor, securing signed receipts from the Contractor for such materials.
6. Review and approve progress payment requests with the exception of the first and last payment which require both your approval and the Contracting Officer's approval.
7. Notify the Contracting Officer promptly of any failure on the part of the Contractor to comply with any contractual obligations or to assume the contractual responsibilities, or of any matters or situations which may affect the contract price and/or performance item, and/or safety of workers.
8. Furnish facts, evaluation and recommendations, and other data required regarding claims filed for additional money or performance time or both. The evaluation and recommendation shall include an analysis of the elements of cost, overhead, and profit margin proposed by the Contractor and the rationale for each element recommended for acceptance.
9. In case of difference of opinion between the COR and the Contractor, cite to the Contractor the section of the specification or drawing on which your interpretation is based, since the contract drawings, specifications, approved shop drawings and sample are the only basis for demands on the Contractor. If the difference of opinion is not thereby reconciled, advise the Contracting Officer in writing
10. Require the Contractor to comply with the safety and security provisions of the contract.
11. Monitor security requirements by Diplomatic Security and by A/FBO.

You are not authorized, under this delegation, to (a) execute or agree to any changes in the specifications, delivery schedule, or other terms and conditions of the contract, (b) resolve any dispute concerning a question of fact of law arising under the contract, or (c) further delegate any of your responsibilities.

This delegation of authority is effective [DATE] and shall remain in effect until completion of the subject contract or as may be rescinded by the Contracting Officer.

All correspondence signed by you in your function as Contracting Officer's Representative shall include this title in your block:

[NAME]
Contracting Officer's
Representative

Please acknowledge receipt on the attached copy and return to this office.

ACKNOWLEDGED:

COR/PROJECT DIRECTOR

DATE

6 FAM 200 Appendix E DOSAR Sample Delegation Memo for Supplies/Services

(Reference DOSAR 642.270(f)(2))

DATE:

MEMORANDUM

TO:

FROM: Contracting Officer

SUBJECT: Delegation of Contracting Officer's Representative
Responsibility and Authority

Pursuant to the authority granted to me as a Contracting Officer under the Federal Acquisition Regulation, you are hereby designated as the Contracting Officer's Representative (COR) for Contract No. [_____] awarded [_____] to [_____]. Under this delegation, you are hereby authorized to coordinate with the contractor on all technical matters which may arise in the administration of this contract; give technical clarification as to the meaning of the specifications including inspection, testing and acceptance procedures; inspection of the contractor's progress to ensure compliance with the contract terms and conditions; to perform such functions as may be necessary to accept the products or services for the Government, including preparation of receiving reports, and to authorized payments, when appropriate.

If questions arise which are not clearly answered in the contract (including the specifications), or if disputes with the contractor occur, a written report to the Contracting Officer shall be prepared setting forth the problem being encountered.

The COR must monitor the contractor's performance to insure that there are no deviations from contract requirements; and, in the event that deviations do occur, furnish prompt written notice of such deviations to the Contracting Officer and the contractor.

All receiving reports or approval of invoices must be executed promptly and furnished to the designated payment office within five working days after receipt of the property or services. All receiving reports must include the following information:

- Contractor or other authorization number
- Product or service description

- Quantities received, if applicable
- Date(s) property or services accepted
- Signature, printed name, title, telephone number,
and mailing address of the receiving official.

Upon completion of the contractor's work, an inspection shall be performed by the COR and any deviations from contract requirements, such as shortages or deficiencies, shall be brought to the attention of the Contracting Officer, in writing. If there are no deficiencies, then a statement of satisfactory performance is appropriate and the goods or services delivered should be accepted.

This Delegation of Authority is limited to the above referenced contract, is not subject to redelegation by you, and may be terminated at any time by written notice to you from the Contracting Officer.

You are responsible for completing a Performance Evaluation for this contractor when this contract has been completed. A copy of the form is attached and is due after all deliveries have been made.

6 FAM 200 Appendix E DOSAR

Sample Delegation Memo for A&E Services

(Reference DOSAR 642.270(f)(2))

DATE:

MEMORANDUM

TO: [ORGANIZATION] - [NAME]

FROM: [ORGANIZATION] - [NAME], Contracting Officer

SUBJECT: Delegation of Authority and Responsibility to the
Contracting Officer's Representative (COR)

Pursuant to the authority granted to me as a Contracting Officer under the Federal Acquisition Regulation, you are hereby designated as the Contracting Officer's Representative for [CONTRACT NO. _____] awarded to [NAME OF FIRM]. As COR, you are responsible for establishing and maintaining liaison with the contractor and coordinating the performance of the contract with the [NAME OF OFFICE], Department of State.

You are expected to thoroughly familiarize yourself with the terms and conditions of this contract and your responsibilities as a COR.

Under this delegation, you are hereby authorized to take the following actions:

Provide technical clarification as to the meaning of the terms and conditions of the contract, including technical requirements, inspection, testing and acceptance procedures;

Coordinate the resolution of all technical matters with the cognizant requiring office and the Contracting Officer;

Assist the contractor in the interpretation of the statement of work or specifications; (Should any dispute arise as to what is called for under the statement of work or specifications, you will confirm your interpretation with the Contracting Officer.)

Physically inspect and monitor contractor's performance and progress to assure compliance with the terms of the contract;
(Should any deviation occur, you shall furnish prompt written notice of such deviations to the Contracting Officer and the contractor.)

Carry out established procedures as may be necessary to accept the products or services contracted for on behalf of the Government, including preparation of receiving reports, and to authorize payments when appropriate. All receiving reports or approval of invoices must be executed promptly and furnished to the designated payment office within five working days after receipt of the property or services. All receiving reports must include the following information:

- Contractor or other authorization number
- Product or service description
- Quantities received, if applicable
- Date(s) property or services accepted
- Signature, printed name, title, telephone number, and mailing address of the receiving official.

Upon completion of the contractor's work, an inspection shall be performed by you and any deviations from contract requirements, such as shortages or deficiencies, shall be brought to the attention of the Contracting Officer, in writing. If there are no deficiencies, then a statement of satisfactory performance is appropriate and the goods or services delivered shall be accepted.

You are responsible for completing a Performance Evaluation for this contractor when this contract has been completed or annually if a multiple year contract is awarded. A copy of the form is attached.

This delegation of authority is limited to the above referenced contract, is not subject to redelegation by you, and may be terminated at any time by written notice to you by the Contracting Officer.

After you have signed the ORIGINAL and one copy of the delegation memorandum, retain the ORIGINAL memorandum along with the executed contract, and return the copy of the fully signed/date memorandum to [C.O. NAME], [OFFICE].

Attachments:

Copy of Contract No.

Copy of Performance Evaluation Form

Receipt Acknowledged:

COR

DATE

cc: Contractor -[NAME]

cc: Contract File - [NUMBER]

6 FAM 200 Appendix E DOSAR COR Replacement Format

(Reference DOSAR 642.270(f)(4))

MEMORANDUM

TO: , Contracting Officer

FROM: , [one level above prospective COR]

SUBJECT: COR Replacement

I hereby request that [NAME OF ORIGINAL COR] be replaced with [NAME OF REPLACEMENT COR] as COR for contract number S_____ with [NAME OF CONTRACTOR] due to the following reason(s):

- ☐ Current COR no longer works in this office.
- ☐ Workload changes have resulted in assignment of current COR to other work.
- ☐ Other (describe):

The proposed replacement COR's training and qualifications are listed below:

1. TRAINING QUALIFICATIONS

<u>Course Title</u>	<u>Date completed</u>
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2. TECHNICAL QUALIFICATIONS/EXPERIENCE

<u>Office</u>	<u>Dates</u>	<u>Type of Work Performed or Contracts Administered</u>
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3. OTHER CONSIDERATIONS

[describe]